UNITED STATES STATUTES AT LARGE

CONTAINING THE

LAWS AND CONCURRENT RESOLUTIONS
ENACTED DURING THE SECOND SESSION OF THE
NINETY-SIXTH CONGRESS
OF THE UNITED STATES OF AMERICA

1980

AND

PROCLAMATIONS

VOLUME 94

IN THREE PARTS

PART 1

PUBLIC LAWS 96–188 THROUGH 96–366

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SECOND SESSION, 1980

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96-377	*U.S. savings bonds, interest rate increase.* AN ACT To facilitate the management of the public debt by permitting an increase in the investment yield on United States savings bonds above the existing 7 per centum ceiling, and by increasing the amount of the bonds paying interest in excess of 4¼ percentum which may be outstanding	Oct. 3, 1980	1512
96-378	*Small vessels, inspection and manning.* AN ACT To amend certain inspection and manning laws applicable to small vessels carrying passengers or freight for hire, and for other purposes	Oct. 6, 1980	1513
96-379	*Dams, name changes.* AN ACT To change the name of the Los Esteros Dam (New Mexico) to the Santa Rosa Dam and Lake, and to designate Clark Hill Dam and Lake on the Savannah River, Georgia and South Carolina as "Clarks Hill Dam and Lake"	Oct. 6, 1980	1520
96-380	*Towing Safety Advisory Committee, establishment.* AN ACT To establish a Towing Safety Advisory Committee in the Department of Transportation	Oct. 6, 1980	1521
96-381	*Marine Protection, Research, and Sanctuaries Act of 1972, amendment.* AN ACT To amend section 204 of the Marine Protection, Research, and Sanctuaries Act of 1972 to authorize appropriations for title II of such Act for fiscal year 1980	Oct. 6, 1980	1523
96-382	*Maritime torts, statute of limitations.* AN ACT To provide for a uniform national three-year statute of limitations in actions to recover damages for personal injury or death, arising out of a maritime tort, and for other purposes	Oct. 6, 1980	1525
96-383	*William H. Harsha Lake and William H. Harsha Dam, designation.* AN ACT To rename a reservoir and dam in the Little Miami River Basin, Ohio, as the "William H. Harsha Lake" and the "William H. Harsha Dam"	Oct. 6, 1980	1526
96-384	*Ray Roberts Lake, designation.* AN ACT To change the name of Aubrey Lake, Texas, to Ray Roberts Lake	Oct. 6, 1980	1527
96-385	*Veterans' Disability Compensation and Housing Benefits Amendments of 1980.* AN ACT To amend title 38, United States Code, to provide cost-of-living increases in the rates of compensation for veterans with service-connected disabilities and in the rates of dependency and indemnity compensation for surviving spouses and children of veterans, to provide for limited grants for special home adaptations for certain severely disabled veterans, to provide for Veterans' Administration guaranties for loans to refinance certain existing veterans' home loans and to increase the maximum loan guaranties for home loans made to veterans, and to provide for the confidentiality of certain Veterans' Administration medical quality assurance records; and for other purposes	Oct. 7, 1980	1528
96-386	*Magnetic Fusion Energy Engineering Act of 1980.* AN ACT To provide for an accelerated program of research and development of magnetic fusion energy technologies leading to the construction and successful operation of a magnetic fusion demonstration plant in the United States before the end of the twentieth century to be carried out by the Department of Energy	Oct. 7, 1980	1539

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96-387	*Vessels, coastwise trade documentation.* AN ACT To authorize the documentation of certain vessels as vessels of the United States, and for other purposes	Oct. 7, 1980	1545
96-388	*U.S. Holocaust Memorial Council, establishment.* AN ACT To establish the United States Holocaust Memorial Council	Oct. 7, 1980	1547
96-389	*Bretton Woods Agreements Act, amendment.* AN ACT To amend the Bretton Woods Agreements Act to authorize consent to an increase in the United States quota in the International Monetary Fund, and for other purposes	Oct. 7, 1980	1551
96-390	*Bob Casey Federal Building—U.S. Courthouse, designation.* AN ACT To name a certain Federal building in Houston, Texas, the Bob Casey Federal Building—U.S. Courthouse	Oct. 7, 1980	1556
96-391	*Federal employee retirement, survivorship benefits.* AN ACT To amend title 5, United States Code, to require any Federal employee who elects at the time of retirement not to provide survivorship benefits for the employee's spouse to notify (or take all reasonable steps to notify) the spouse of that election	Oct. 7, 1980	1557
96-392	*O. C. Fisher Federal Building, designation.* AN ACT To designate the Federal Building located at 33 West Twohig, San Angelo, Texas, as the "O. C. Fisher Federal Building"	Oct. 7, 1980	1558
96-393	*Minton-Capehart Federal Building, designation.* AN ACT To name a certain Federal building in Indianapolis, Indiana, the Minton-Capehart Federal Building	Oct. 7, 1980	1559
96-394	*J. Marvin Jones Federal Building, designation.* AN ACT To designate the building known as the Federal Building and United States Courthouse in Amarillo, Texas, as the "J. Marvin Jones Federal Building"	Oct. 7, 1980	1560
96-395	*John S. Monagan Federal Building, designation.* AN ACT To designate the United States Court House and the United States Post Office Federal Building in Waterbury, Connecticut, as the "John S. Monagan Federal Building"	Oct. 7, 1980	1561
96-396	*U.S. Secret Service Uniformed Division, basic compensation adjustments.* AN ACT To amend the District of Columbia Police and Firemen's Salary Act of 1958 to provide for the same adjustments in the basic compensation of officers and members of the United States Secret Service Uniformed Division as are given to Federal employees under the General Schedule	Oct. 7, 1980	1562
96-397	*Justice Department Appropriation Authorization Act, FY 1980, authority continuation.* AN ACT To continue in effect any authority provided under the Department of Justice Appropriation Authorization Act, Fiscal Year 1980, for a certain period	Oct. 7, 1980	1563
96-398	*Mental Health Systems Act.* AN ACT To improve the provision of mental health services and otherwise promote mental health throughout the United States, and for other purposes	Oct. 7, 1980	1564
96-399	*Housing and Community Development Act of 1980.* AN ACT To amend and extend certain Federal laws relating to housing, community and neighborhood development and preservation, and related programs, and for other purposes	Oct. 8, 1980	1614
96-400	*Department of Transportation and Related Agencies Appropriation Act, 1981.* AN ACT Making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1981, and for other purposes	Oct. 9, 1980	1681

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96-401	*Northern Cheyenne Indian Reservation, leases.* AN ACT Relating to certain leases involving the Secretary of the Interior and the Northern Cheyenne Indian Reservation	Oct. 9, 1980	1701
96-402	*Uniformed Services Survivor Benefits Amendments of 1980.* AN ACT To amend title 10, United States Code, to remove certain inequities in the Survivor Benefit Plan provided for under chapter 73 of such title, and for other purposes	Oct. 9, 1980	1705
96-403	*Social security tax receipts, allocation adjustments.* AN ACT To amend title II of the Social Security Act to make necessary adjustments in the allocation of social security tax receipts between the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund	Oct. 9, 1980	1709
96-404	*Fort Berthold Reservation Tribes, damage claims against U.S.* AN ACT To authorize the Three Affiliated Tribes of the Fort Berthold Reservation to file in the Court of Claims any claims against the United States for damages for delay in payment for lands claimed to be taken in violation of the United States Constitution, and for other purposes	Oct. 9, 1980	1711
96-405	*Blackfeet and Gros Ventre Tribes, damage claims against U.S.* AN ACT To authorize the Blackfeet and Gros Ventre Tribes to file in the Court of Claims any claims against the United States for damages for delay in payment for lands claimed to be taken in violation of the United States Constitution, and for other purposes	Oct. 9, 1980	1713
96-406	*Umatilla and Wallowa National Forests, land inclusion.* AN ACT To extend the provisions of the General Exchange Act, as amended, to certain lands in order that they may become parts of the Umatilla and Wallowa National Forests, and for other purposes	Oct. 9, 1980	1715
96-407	*Hewson A. Ryan, Honorary Consul of Honduras.* AN ACT Granting the consent of the Congress to Hewson A. Ryan to accept the office and title of Honorary Consul of Honduras	Oct. 9, 1980	1717
96-408	*James M. Hanley Federal Building, designation.* AN ACT To designate the building known as United States Court House and Federal Building in Syracuse, New York, as the "James M. Hanley Federal Building"	Oct. 9, 1980	1718
96-409	*Edith Green-Wendell Wyatt Federal Building, designation.* AN ACT To designate the Federal building in Portland, Oregon the "Edith Green Federal Building"	Oct. 9, 1980	1719
96-410	*Robert N. Giaimo Federal Building, designation.* AN ACT To designate the United States Federal Building in New Haven, Connecticut, as the "Robert N. Giaimo Federal Building"	Oct. 9, 1980	1720
96-411	*James C. Cleveland Federal Building, designation.* AN ACT To redesignate the United States Post Office and Courthouse Building in Concord, New Hampshire, as the "James C. Cleveland Federal Building"	Oct. 9, 1980	1721
96-412	*Andrew W. Breidenbach Environmental Research Center, designation.* AN ACT To name the Environmental Research Center in Cincinnati, Ohio, the "Andrew W. Breidenbach Environmental Research Center"	Oct. 9, 1980	1722
96-413	*William S. Moorhead Federal Building, designation.* AN ACT To designate the United States Federal Building in Pittsburgh, Pennsylvania, as the "William S. Moorhead Federal Building"	Oct. 9, 1980	1723

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96-414	*Lord Cornwallis, observance of 200th anniversary of surrender to General George Washington; designation.* JOINT RESOLUTION Designating October 19, 1981, as a "Day of National Observance of the Two Hundreth Anniversary of the Surrender of Lord Cornwallis to General George Washington at Yorktown, Virginia"	Oct. 9, 1980	1724
96-415	*Carl Albert Indian Health Facility, designation.* AN ACT To designate the Indian Health Facility in Ada, Oklahoma, the "Carl Albert Indian Health Facility"	Oct. 9, 1980	1725
96-416	*National Agriculture Day, designation.* JOINT RESOLUTION To proclaim March 19, 1981, as "National Agriculture Day"	Oct. 9, 1980	1726
96-417	*Customs Courts Act of 1980.* AN ACT To improve the Federal judicial machinery by clarifying and revising certain provisions of title 28, United States Code, relating to the judiciary and judicial review of international trade matters, and for other purposes	Oct. 10, 1980	1727
96-418	*Military Construction Authorization Act, 1981* AN ACT To authorize certain construction at military installations for fiscal year 1981, and for other purposes	Oct. 10, 1980	1749
96-419	*National Lupus Week, designation authorization.* JOINT RESOLUTION To provide for the designation of a week as "National Lupus Week"	Oct. 10, 1980	1784
96-420	*Maine Indian Claims Settlement Act of 1980.* AN ACT To provide for the settlement of land claims of Indians, Indian nations and tribes and bands of Indians in the State of Maine, including the Passamaquoddy Tribe, the Penobscot Nation, and the Houlton Band of Maliseet Indians, and for other purposes	Oct. 10, 1980	1785
96-421	*National Patriotism Week, designation.* JOINT RESOLUTION To designate the week commencing with the third Monday in February of 1981 as "National Patriotism Week"	Oct. 10, 1980	1798
96-422	*Refugee Education Assistance Act of 1980.* AN ACT To provide general assistance to local educational agencies for the education of Cuban and Haitian refugee children, to provide special impact aid to such agencies for the education of Cuban and Haitian refugee children and Indochinese refugee children, and to provide assistance to State educational agencies for the education of Cuban and Haitian refugee adults	Oct. 10, 1980	1799
96-423	*Federal Railroad Safety Authorization Act of 1980.* AN ACT To amend the Federal Railroad Safety Act of 1970 to authorize additional appropriations, and for other purposes	Oct. 10, 1980	1811
96-424	*Refugee Education Assistance Act of 1980, provision, repeal.* AN ACT To repeal a provision of the Refugee Education Assistance Act of 1980	Oct. 10, 1980	1820
96-425	*Automobile Fuel Efficiency Act of 1980.* AN ACT To amend title V of the Motor Vehicle Information and Cost Savings Act to reduce administrative burdens on low volume automobile manufacturers, to encourage an increase of the domestic value added content in labor and materials of foreign automobiles sold in the United States, to extend the time available to all manufacturers for carryforward or carryback of credits earned under the Act, and for other purposes	Oct. 10, 1980	1821
96-426	*Frank Carlson Federal Building, designation.* AN ACT To name the Federal Building located at 444 Southeast Quincy, Topeka, Kansas, the "Frank Carlson Federal Building"	Oct. 10, 1980	1830

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96-427	*Federal Employees' Group Life Insurance Act of 1980.* AN ACT To amend chapter 87 of title 5, United States Code, to increase the amounts of regular and optional group life insurance available to Federal employees and provide optional life insurance on family members, and for other purposes	Oct. 10, 1980	1831
96-428	*Martin Luther King, Junior, National Historic Site; establishment.* AN ACT To establish the Martin Luther King, Junior, National Historic Site in the State of Georgia, and for other purposes	Oct. 10, 1980	1839
96-429	*Abraham A. Ribicoff Federal Building, designation.* AN ACT To designate the United States Federal Building in Hartford, Connecticut, as the "Abraham A. Ribicoff Federal Building"	Oct. 10, 1980	1844
96-430	*Boston African American National Historic Site, establishment.* AN ACT To provide for the establishment of the Boston African American national Historic Site in the Commonwealth of Massachusetts, and for other purposes	Oct. 10, 1980	1845
96-431	*Military leave for Federal employees.* AN ACT To amend title 5, United States Code, to provide that military leave be made available for Federal employees on a fiscal year rather than a calendar year basis, to allow certain unused leave to accumulate for subsequent use, and for other purposes	Oct. 10, 1980	1850
96-432	*U.S. Capitol grounds.* AN ACT To amend the Act of July 31, 1946, as amended, relating to the United States Capitol Grounds, and for other purposes	Oct. 10, 1980	1851
96-433	*Brokers and dealers' customers, increased protection; financial privacy, applicability to SEC.* AN ACT To amend the Securities Investor Protection Act to increase the amount of protection available under such Act to customers of brokers and dealers, and to provide for the applicability of the Right to Financial Privacy Act of 1978 to the Securities and Exchange Commission	Oct. 10, 1980	1855
96-434	*Assiniboine Tribe, claims against U.S.* AN ACT To authorize the Assiniboine Tribe to file in the Court of Claims any claims against the United States for damages for delay in payment for lands claimed to be taken in violation of the United States Constitution, and for other purposes	Oct. 10, 1980	1859
96-435	*Adams National Historic Site, Quincy, Mass.* AN ACT Authorizing the Secretary of the Interior to accept the conveyance of the United First Parish Church in Quincy, Massachusetts, and authorizing the Secretary to administer the United First Parish Church as a national historic site, and for other purposes	Oct. 10, 1980	1861
96-436	*Military Construction Appropriation Act, 1981.* AN ACT Making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1981, and for other purposes	Oct. 13, 1980	1863
96-437	*U.S. Grain Standards Act, amendment.* AN ACT To amend the United States Grain Standards Act to permit grain delivered to export elevators by any means of conveyance other than barge to be transferred into such export elevators without official weighing, and for other purposes	Oct. 13, 1980	1870
96-438	*Consolidated Farm and Rural Development Act, amendment.* AN ACT To amend the Consolidated Farm and Rural Development Act	Oct. 13, 1980	1871
96-439	*Internal Revenue Code of 1954, amendment.* AN ACT To amend the Internal Revenue Code of 1954 to authorize three additional judges for the Tax Court and to remove the age limitation on appointments to the Tax Court	Oct. 13, 1980	1878

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96-440	*Privacy Protection Act of 1980.* AN ACT To limit governmental search and seizure of documentary materials possessed by persons, to provide a remedy for persons aggrieved by violations of the provisions of this Act, and for other purposes	Oct. 13, 1980	1879
96-441	*National Collection of Fine Arts and Museum of History and Technology, name changes.* AN ACT To rename the National Collection of Fine Arts and the Museum of History and Technology of the Smithsonian Institution as the National Museum of American Art and the National Museum of American History, respectively	Oct. 13, 1980	1884
96-442	*Manassas National Battlefield Park Amendments of 1980.* AN ACT To amend the Act entitled "An Act to preserve within Manassas National Battlefield Park, Virginia, the most important historic properties relating to the battle of Manassas, and for other purposes", approved April 17, 1954 (68 Stat. 56; 16 U.S.C. 429b)	Oct. 13, 1980	1885
96-443	*Italian-American Heritage Week, designation authorization.* JOINT RESOLUTION To authorize and request the President to issue a proclamation designating October 12 through October 19, 1980, as "Italian-American Heritage Week"	Oct. 13, 1980	1888
96-444	*Certain legislative branch employees, transfer.* AN ACT To transfer certain employees of the Architect of the Capitol to the Sergeant at Arms and Doorkeeper of the Senate	Oct. 13, 1980	1889
96-445	*People's Republic of China, claim payment priorities.* AN ACT To establish priorities in the payment of claims against the People's Republic of China	Oct. 13, 1980	1891
96-446	*Disaster relief, bequests and gifts.* AN ACT To authorize the acceptance and use of bequests and gifts for disaster relief	Oct. 13, 1980	1893
96-447	*Civil Rights Commission Authorization Act of 1980.* AN ACT To amend section 106 of the Civil Rights Act of 1957 to authorize appropriations for the Commission on Civil Rights for the fiscal year 1981	Oct. 13, 1980	1894
96-448	*Staggers Rail Act of 1980.* AN ACT To reform the economic regulation of railroads, and for other purposes	Oct. 14, 1980	1895
96-449	*Hostage Relief Act of 1980.* AN ACT To provide certain benefits to individuals held hostage in Iran and to similarly situated individuals, and for other purposes	Oct. 14, 1980	1967
96-450	*Intelligence Authorization Act for Fiscal Year 1981.* AN ACT To authorize appropriations for fiscal year 1981 for the intelligence and intelligence-related activities of the United States Government, for the Intelligence Community Staff, and for the Central Intelligence Agency Retirement and Disability System, and for other purposes	Oct. 14, 1980	1975
96-451	*Federal Boat Safety Act of 1971, amendment.* AN ACT To amend the Federal Boat Safety Act of 1971 to promote recreational boating safety through the development, administration, and financing of a national recreational boating safety improvement program, and for other purposes	Oct. 14, 1980	1983
96-452	*Fifth Circuit Court of Appeals Reorganization Act of 1980.* AN ACT To amend title 28, United States Code, to divide the fifth judicial circuit of the United States into two circuits, and for other purposes	Oct. 14, 1980	1994
96-453	*Maritime Education and Training Act of 1980.* AN ACT To amend the Merchant Marine Act, 1936, to revise and reenact the laws pertaining to the United States Merchant Marine Academy and to State maritime academies and for other maritime education and training purposes	Oct. 15, 1980	1997

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96-454	*Household Goods Transportation Act of 1980.* AN ACT To reduce regulation of and increase competition in the household goods moving industry, and for other purposes	Oct. 15, 1980	2011
96-455	*Trademark Trial and Appeal Board, membership.* AN ACT To amend section 17 of the Act of July 5, 1946, as amended, entitled "An Act to provide for the registration and protection of trade-marks used in commerce, to carry out the provisions of certain international conventions, and for other purposes"	Oct. 15, 1980	2024
96-456	*Classified Information Procedures Act.* AN ACT To provide certain pretrial, trial and appellate procedures for criminal cases involving classified information	Oct. 15, 1980	2025
96-457	*Water resources research and development, authorities extension.* AN ACT To extend certain authorities of the Secretary of the Interior with respect to water resources research and development and saline water conversion research and development programs, and for other purposes	Oct. 15, 1980	2032
96-458	*Judicial Councils Reform and Judicial Conduct and Disability Act of 1980.* AN ACT To revise the composition of the judicial councils of the Federal judicial circuits, to establish a procedure for the processing of complaints against Federal judges, and for other purposes	Oct. 15, 1980	2035
96-459	*Maritime Appropriation Authorization Act for Fiscal Year 1981.* AN ACT To authorize appropriations for fiscal year 1981 and a supplemental appropriation for fiscal year 1980 for certain maritime programs of the Department of Commerce, and for other purposes	Oct. 15, 1980	2042
96-460	*Chesapeake Bay Research Coordination Act of 1980.* AN ACT To provide for the coordination of federally supported and conducted research efforts regarding the Chesapeake Bay, and for other purposes	Oct. 15, 1980	2044
96-461	*National Bureau of Standards Authorization Act for Fiscal Years 1981 and 1982.* AN ACT To authorize appropriations to the Secretary of Commerce for the programs of the National Bureau of Standards for fiscal years 1981 and 1982, and for other purposes	Oct. 15, 1980	2049
96-462	*Federal District Court Organization Act of 1980.* AN ACT To amend title 28 to make certain changes in judicial districts and in divisions within judicial districts, and for other purposes	Oct. 15, 1980	2053
96-463	*Used Oil Recycling Act of 1980.* AN ACT To amend the Solid Waste Disposal Act to further encourage the use of recycled oil	Oct. 15, 1980	2055
96-464	*Coastal Zone Management Improvement Act of 1980.* AN ACT To improve coastal zone management in the United States, and for other purposes	Oct. 17, 1980	2060
96-465	*Foreign Service Act of 1980.* AN ACT To promote the foreign policy of the United States by strengthening and improving the Foreign Service of the United States, and for other purposes	Oct. 17, 1980	2071
96-466	*Veterans' Rehabilitation and Education Amendments of 1980.* AN ACT To amend title 38, United States Code, to provide for updated and expanded rehabilitation programs for veterans with service-connected disabilities, to provide a 10-percent increase in the rates of educational assistance under the GI bill, to make certain improvements in the educational assistance programs for veterans and eligible survivors and dependents, to revise and expand veterans' employment and training programs, and to provide for certain cost savings; and for other purposes	Oct. 17, 1980	2171
96-467	*Tariff treatment of certain articles.* AN ACT Relating to the tariff treatment of certain articles	Oct. 17, 1980	2220

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96-469	*Animal Cancer Research Act.* AN ACT To provide for research and coordination of research in the diagnosis, prevention, and control of malignant tumors in domestic animals, poultry, and wildlife	Oct. 17, 1980	2235
96-470	*Congressional Reports Elimination Act of 1980.* AN ACT To discontinue or amend certain requirements for agency reports to Congress	Oct. 19, 1980	2237
96-471	*Installment Sales Revision Act of 1980.* AN ACT To amend the Internal Revenue Code of 1954 to revise the rules relating to certain installment sales	Oct. 19, 1980	2247
96-472	*Earthquake hazards reduction and fire prevention and control programs.* AN ACT To amend the Earthquake Hazards Reduction Act of 1977 and the Federal Fire Prevention and Control Act of 1974 to authorize the appropriation of funds to the Director of the Federal Emergency Management Agency to carry out the earthquake hazards reduction program and the fire prevention and control program, and for other purposes	Oct. 19, 1980	2257
96-473	*Social Security Act, amendment.* AN ACT To amend the Social Security Act with respect to the retirement test, to reduce spending under title II of the Social Security Act, and for other purposes	Oct. 19, 1980	2263
96-474	*Kisatchie National Forest, La., land conveyance.* AN ACT To authorize the Secretary of Agriculture to convey certain Government-owned property in the Kisatchie National Forest to the State of Louisiana in exchange for certain property at old Camp Livingston, Louisiana	Oct. 19, 1980	2267
96-475	*Federal coal leases in N. Mex., exchange.* AN ACT To provide for the exchange of certain Federal coal leases in the State of New Mexico for other Federal coal leases in that State	Oct. 19, 1980	2269
96-476	*Rattlesnake National Recreation Area and Wilderness Act of 1980.* AN ACT To establish the Rattlesnake National Recreation Area and Wilderness in the State of Montana	Oct. 19, 1980	2271
96-477	*Small Business Investment Incentive Act of 1980.* AN ACT To amend the Federal securities laws to provide incentives for small business investment, and for other purposes	Oct. 21, 1980	2275
96-478	*Act to Prevent Pollution from Ships.* AN ACT To implement the Protocol of 1978 Relating to the International Convention for the Prevention of Pollution from Ships, 1973, and for other purposes	Oct. 21, 1980	2297
96-479	*National Materials and Minerals Policy, Research and Development Act of 1980.* AN ACT To provide for a national policy for materials and to strengthen the materials research, development, production capability, and performance of the United States, and for other purposes	Oct. 21, 1980	2305
96-480	*Stevenson-Wydler Technology Innovation Act of 1980.* AN ACT To promote United States technological innovation for the achievement of national economic, environmental, and social goals, and for other purposes	Oct. 21, 1980	2311
96-481	*Small business programs and Federal litigation assistance.* AN ACT To amend the Small Business Act, to provide for the payment of the United States of certain fees and costs incurred by prevailing parties in Federal agency adjudications and in civil actions in courts of the United States, and for other purposes	Oct. 21, 1980	2321

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96-482	*Solid Waste Disposal Act Amendments of 1980.* AN ACT To amend and reauthorize the Solid Waste Disposal Act	Oct. 21, 1980	2334
96-483	*Clean Water Act, amendment.* AN ACT To extend certain authorizations in the Clean Water Act, and for other purposes	Oct. 21, 1980	2360
96-484	*Pamunkey Indian Tribe; land dispute with Southern Railway Co.* AN ACT To ratify a settlement agreement in a land dispute between the Pamunkey Indian Tribe and the Southern Railway Company, and for other purposes	Nov. 24, 1980	2365
96-485	*National Family Week, designation authorization.* JOINT RESOLUTION To authorize the President to issue a proclamation designating the week of November 23 through 29, 1980, as "National Family Week"	Nov. 26, 1980	2368
96-486	*Federal Question Jurisdictional Amendments Act of 1980.* AN ACT To eliminate the amount in controversy requirement for Federal question jurisdiction	Dec. 1, 1980	2369
96-487	*Alaska National Interest Lands Conservation Act.* AN ACT To provide for the designation and conservation of certain public lands in the the State of Alaska, including the designation of units of the National Park, National Wildlife Refuge, National Forest, National Wild and Scenic Rivers, and National Wilderness Preservation Systems, and for other purposes	Dec. 2, 1980	2371
96-488	*U.S.S. Intrepid, transfer to museum.* AN ACT To allow the obsolete aircraft carrier United States ship Intrepid to be transferred to the Intrepid Museum Foundation, Incorporated, before the expiration of the otherwise applicable sixty-day congressional review period	Dec. 2, 1980	2552
96-489	*Skiing and winter recreational activities, safety promotion.* AN ACT To promote safety and health in skiing and other outdoor winter recreational activities	Dec. 2, 1980	2553
96-490	*Customs valuation; trade agreement protocol, approval and implementation.* AN ACT To approve and implement the protocol to the trade agreement relating to customs valuation, and for other purposes	Dec. 2, 1980	2556
96-491	*Moapa Band of Paiutes, lands in trust.* AN ACT To provide for certain lands to be held in trust for the Moapa Band of Paiute and to be considered to be part of the Moapa Indian Reservation	Dec. 2, 1980	2561
96-492	*Ute Mountain Ute Tribe, land conveyance.* AN ACT To require the Secretary of the Interior to convey a parcel of land located in Colorado and certain mineral interests to the Ute Mountain Ute Tribe and to pay an amount to such tribe for energy development	Dec. 2, 1980	2565
96-493	*Gasohol Competition Act of 1980.* AN ACT To amend the Clayton Act to prohibit restrictions on the use of credit instruments in the purchase of gasohol	Dec. 2, 1980	2568
96-494	*Agricultural Act of 1980.* AN ACT To increase the minimum price support loan rates for wheat, feed grains, and soybeans, to improve the farmer-held reserve program for wheat and feed grains, to establish a five-year food security wheat reserve, and for other purposes	Dec. 3, 1980	2570
96-495	*Suisun Marsh Preservation and Restoration Act of 1979.* AN ACT To provide for a cooperative agreement between the Secretary of the Interior and the State of California to improve and manage the Suisun Marsh in California	Dec. 3, 1980	2581

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96-496	*Arts and Humanities Act of 1980.* AN ACT To amend the National Foundation on the Arts and the Humanities Act of 1965 and the Museum Services Act to extend the authorizations of appropriations contained in such Acts, to amend the Arts and Artifacts Indemnity Act to make certain changes in the coverage provisions of such Act, and for other purposes	Dec. 4, 1980	2583
96-497	*Gold Star Wives of America, Federal charter.* AN ACT To incorporate the Gold Star Wives of America	Dec. 4, 1980	2595
96-498	*Jacob K. Javits Federal Building, designation.* AN ACT To designate the Jacob K. Javits Federal Building	Dec. 4, 1980	2598
96-499	*Omnibus Reconciliation Act of 1980.* AN ACT To provide for reconciliation pursuant to section 3 of the First Concurrent Resolution on the Budget for the fiscal year 1981	Dec. 5, 1980	2599
96-500	*Federal employees disability determinations, review.* AN ACT To amend title 5, United States Code, to permit Federal employees to obtain review of certain disability determinations made by the Office of Personnel Management under the civil service retirements and disability system	Dec. 5, 1980	2696
96-501	*Pacific Northwest Electric Power Planning and Conservation Act.* AN ACT To assist the electrical consumers of the Pacific Northwest through use of the Federal Columbia River Power System to achieve cost-effective energy conservation, to encourage the development of renewable energy resources, to establish a representative regional power planning process, to assure the region of an efficient and adequate power supply, and for other purposes	Dec. 5, 1980	2697
96-502	*Safe Drinking Water Act, amendment.* AN ACT To amend the Safe Drinking Water Act, and for other purposes	Dec. 5, 1980	2737
96-503	*Former Vice President or spouse, Secret Service protection.* JOINT RESOLUTION To authorize the United States Secret Service to continue to furnish protection to the former Vice President or his spouse	Dec. 5, 1980	2740
96-504	*Employment as U.S. justice or judge, annuity payment discontinuance.* AN ACT To amend chapter 83 of title 5, United States Code, to discontinue civil service annuity payments for periods of employment as a justice or judge of the United States, and for other purposes	Dec. 5, 1980	2741
96-505	*Metlakatla Indian Community Enrollment Act of 1980.* AN ACT To provide for the removal of the names of certain Alaska Natives from the Alaska Native Roll and to allow their enrollment with the Metlakatla Indian Community	Dec. 5, 1980	2743
96-506	*Public Works and Economic Development Act of 1965, amendment; Appalachian Regional Act of 1965, amendment.* AN ACT To amend the Public Works and Economic Development Act of 1965 and the Appalachian Regional Development Act of 1965 to extend the authorization for such Acts for two additional years	Dec. 8, 1980	2745
96-507	*Communications Act of 1934, amendment.* AN ACT To repeal section 506 of the Communications Act of 1934	Dec. 8, 1980	2747
96-508	*Council on Wage and Price Stability, appropriation authorization and extension.* AN ACT To increase the authorization for the Council on Wage and Price Stability, to extend the duration of such Council, and for other purposes	Dec. 8, 1980	2748

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96-509	*Juvenile Justice Amendments of 1980.* AN ACT To amend the Juvenile Justice and Delinquency Prevention Act of 1974 to extend the authorization of appropriations for such Act, and for other purposes...	Dec. 8, 1980	2750
96-510	*Comprehensive Environmental Response, Compensation, and Liability Act of 1980.* AN ACT To provide for liability, compensation, cleanup, and emergency response for hazardous substances released into the environment and the cleanup of inactive hazardous waste disposal sites	Dec. 11, 1980	2767
96-511	*Paperwork Reduction Act of 1980.* AN ACT To reduce paperwork and enhance the economy and efficiency of the Government and the private sector by improving Federal information policymaking, and for other purposes	Dec. 11, 1980	2812
96-512	*Methane Transportation Research, Development, and Demonstration Act of 1980.* AN ACT Entitled the "Methane Transportation Research, Development, and Demonstration Act of 1980"	Dec. 12, 1980	2827
96-513	*Defense Officer Personnel Management Act.* AN ACT To amend title 10, United States Code, to revise and standardize the provisions of law relating to appointment, promotion, separation, and mandatory retirement of regular commissioned officers of the Army, Navy, Air Force, and Marine Corps, to establish the permanent grade of commodore admiral in the Navy, to equalize the treatment of female commissioned officers with that of male commissioned officers, and for other purposes	Dec. 12, 1980	2835
96-514	*Department of the Interior and related agencies, appropriations, fiscal year 1981.* AN ACT Making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1981, and for other purposes	Dec. 12, 1980	2957
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96-516	*National Science Foundation Authorization and Science and Technology Equal Opportunities Act.* AN ACT To authorize appropriations for activities for the National Science Foundation for the fiscal year 1981, and to promote the full use of human resources in science and technology through a comprehensive and continuing program to increase substantially the contribution and advancement of women and minorities in scientific, professional, and technical careers, and for other purposes	Dec. 12, 1980	3007
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96-520	*Lake Erie, nonnavigable portion.* AN ACT To provide that a certain portion of Lake Erie shall be declared nonnavigable	Dec. 12, 1980	3033

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96-524	*Post offices, name designations.* AN ACT To recognize the meritorious achievements of certain individuals by providing for the designation of certain post offices in their honor, and for other purposes	Dec. 12, 1980	3042
96-525	*Italian earthquake victims; internatonal disaster assistance.* AN ACT To amend the Foreign Assistance Act of 1961 to authorize appropriations for international disaster assistance for the victims of the recent earthquakes in southern Italy	Dec. 12, 1980	3043
96-526	*Department of Housing and Urban Development—Independent Agencies Appropriation Act, 1981.* AN ACT Making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1981, and for other purposes	Dec. 15, 1980	3044
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96-530	*District of Columbia Appropriation Act.* AN ACT Making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1981, and for other purposes	Dec. 15, 1980	3121
96-531	*R. Shaefer Heard Park, Ga., designation.* AN ACT To provide that the park referred to as the East Lake Park located within the West Point Lake project on the Chattahoochee River, Georgia, shall hereafter be known and designated as the "R. Shaefer Heard Park"	Dec. 15, 1980	3129
96-532	*U.S. Supreme Court Building, property acquisition.* AN ACT To provide for the acquisition of certain property in square 758 in the District of Columbia as an addition to the grounds of the United States Supreme Court Building	Dec. 15, 1980	3130

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96-600	*Guam, Virgin Islands, Puerto Rico; DOD civilian employees, rotation rights.* AN ACT To authorize the Secretary of Defense to provide civilian career employees of the Department of Defense who are residents of Guam, the Virgin Islands, or the Commonwealth of Puerto Rico, the same relative rotation rights as apply to other career employees, to authorize the Delegates in Congress from Guam and the Virgin Islands to have two appointments at a time, rather than one appointment, to each of the service academies, and to authorize the establishment of a National Guard of Guam	Dec. 24, 1980	3493
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PUBLIC LAWS

ENACTED DURING THE

SECOND SESSION OF THE NINETY-SIXTH CONGRESS

OF THE

UNITED STATES OF AMERICA

Begun and held at the City of Washington on Thursday, January 3, 1980, and adjourned sine die on Tuesday, December 16, 1980. JIMMY CARTER, *President;* WALTER F. MONDALE, *Vice President;* THOMAS P. O'NEILL, JR., *Speaker of the House of Representatives.*

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Public Law 96-188
96th Congress

Joint Resolution

To extend by sixty days the expiration date of the Defense Production Act of 1950.

Jan. 28, 1980
[H.J. Res. 478]

Defense Production Act of 1950, amendment.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the first sentence of section 717(a) of the Defense Production Act of 1950 (50 U.S.C. App. 2166(a)) is amended by striking out "January 28, 1980" and inserting in lieu thereof "March 28, 1980".

Approved January 28, 1980.

LEGISLATIVE HISTORY:

CONGRESSIONAL RECORD, Vol. 126 (1980):
Jan. 24, considered and passed House and Senate.

Public Law 96-189
96th Congress

An Act

Feb. 8, 1980
[H.R. 4320]

To consent to the amended Bear River Compact between the States of Utah, Idaho, and Wyoming.

Bear River Compact. Congressional consent.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the consent of Congress is given to the amended Bear River Compact between the States of Idaho, Utah, and Wyoming. Such compact reads as follows:

"AMENDED BEAR RIVER COMPACT

Amended agreement by Idaho, Utah, and Wyoming.

"The State of Idaho, the State of Utah and the State of Wyoming, acting through their respective Commissioners after negotiations participated in by a representative of the United States of America appointed by the President, have agreed to an Amended Bear River Compact as follows:

"ARTICLE I

"A. The major purposes of this Compact are to remove the causes of present and future controversy over the distribution and use of the waters of the Bear River; to provide for efficient use of water for multiple purposes; to permit additional development of the water resources of Bear River; to promote interstate comity; and to accomplish an equitable apportionment of the waters of the Bear River among the compacting States.

"B. The physical and all other conditions peculiar to the Bear River constitute the basis for this Compact. No general principle or precedent with respect to any other interstate stream is intended to be established.

"ARTICLE II

Definitions.

"As used in this Compact the term

"1. 'Bear River' means the Bear River and its tributaries from its source in the Uinta Mountains to its mouth in Great Salt Lake;

"2. 'Bear Lake' means Bear Lake and Mud Lake;

"3. 'Upper Division' means the portion of Bear River from its source in the Uinta Mountains to and including Pixley Dam, a diversion dam in the Southeast Quarter of Section 25, Township 23 North, Range 120 West, Sixth Principal Meridian, Wyoming;

"4. 'Central Division' means the portion of Bear River from Pixley Dam to and including Stewart Dam, a diversion dam in Section 34, Township 13 South, Range 44 East, Boise Base and Meridian, Idaho;

"5. 'Lower Division' means the portion of the Bear River between Stewart Dam and Great Salt Lake, including Bear Lake and its tributary drainage;

"6. 'Upper Utah Section Diversions' means the sum of all diversions in second-feet from the Bear River and the tributaries of the Bear River joining the Bear River upstream from the point where the Bear River crosses the Utah-Wyoming State line above Evanston,

Wyoming; excluding the diversions by the Hilliard East Fork Canal, Lannon Canal, Lone Mountain Ditch, and Hilliard West Side Canal;

"7. 'Upper Wyoming Section Diversions' means the sum of all diversions in second-feet from the Bear River main stem from the point where the Bear River crosses the Utah-Wyoming State line above Evanston, Wyoming, to the point where the Bear River crosses the Wyoming-Utah State line east of Woodruff, Utah, and including the diversions by the Hilliard East Fork Canal, Lannon Canal, Lone Mountain Ditch, and Hilliard West Side Canal;

"8. 'Lower Utah Section Diversions' means the sum of all diversions in second-feet from the Bear River main stem from the point where the Bear River crosses the Wyoming-Utah State line east of Woodruff, Utah, to the point where the Bear River crosses the Utah-Wyoming State line northeast of Randolph, Utah;

"9. 'Lower Wyoming Section Diversions' means the sum of all diversions in second-feet from the Bear River main stem from the point where the Bear River crosses the Utah-Wyoming State line northeast of Randolph to and including the diversion at Pixley Dam;

"10. 'Commission' means the Bear River Commission, organized pursuant to Article III of this Compact;

"11. 'Water user' means a person, corporation, or other entity having a right to divert water from the Bear River for beneficial use;

"12. 'Second-foot' means a flow of one cubic foot of water per second of time passing a given point;

"13. 'Acre-foot' means the quantity of water required to cover one acre to a depth of one foot, equivalent to 43,560 cubic feet;

"14. 'Biennium' means the 2-year period commencing on October 1 of the first odd-numbered year after the effective date of this Compact and each 2-year period thereafter;

"15. 'Water year' means the period beginning October 1 and ending September 30 of the following year;

"16. 'Direct flow' means all water flowing in a natural watercourse except water released from storage or imported from a source other than the Bear River watershed;

"17. 'Border Gaging Station' means the stream flow gaging station in Idaho on the Bear River above Thomas Fork near the Wyoming-Idaho boundary line in the Northeast Quarter of the Northeast Quarter of Section 15, Township 14 South, Range 46 East, Boise Base and Meridian, Idaho;

"18. 'Smiths Fork' means a Bear River tributary which rises in Lincoln County, Wyoming, and flows in a general southwesterly direction to its confluence with Bear River near Cokeville, Wyoming;

"19. 'Grade Creek' means a Smiths Fork tributary which rises in Lincoln County, Wyoming, and flows in a westerly direction and in its natural channel is tributary to Smiths Fork in Section 17, Township 25 North, Range 118 West, Sixth Principal Meridian, Wyoming;

"20. 'Pine Creek' means a Smiths Fork tributary which rises in Lincoln County, Wyoming, emerging from its mountain canyon in Section 34, Township 25 North, Range 118 West, Sixth Principal Meridian, Wyoming, and in its natural channel is tributary to Smiths Fork in Section 36, Township 25 North, Range 119 West, Sixth Principal Meridian, Wyoming;

"21. 'Bruner Creek' and 'Pine Creek Springs' means Smiths Fork tributaries which rise in Lincoln County, Wyoming, in Sections 31 and 32, Township 25 North, Range 118 West, Sixth Principal Meridian, and in their natural channels are tributary to Smiths Fork in Section 36, Township 25 North, Range 119 West, Sixth Principal Meridian, Wyoming;

"22. 'Spring Creek' means a Smiths Fork tributary which rises in Lincoln County, Wyoming, in Sections 1 and 2, Township 24, Range 119 West, Sixth Principal Meridian, Wyoming, and flows in a general westerly direction to its confluence with Smiths Fork in Section 4, Township 24 North, Range 119 West, Sixth Principal Meridian, Wyoming;

"23. 'Sublette Creek' means the Bear River tributary which rises in Lincoln County, Wyoming, and flows in a general westerly direction to its confluence with Bear River in Section 20, Township 24 North, Range 119 West, Sixth Principal Meridian, Wyoming;

"24. 'Hobble Creek' means the Smiths Fork tributary which rises in Lincoln County, Wyoming, and flows in a general southwesterly direction to its confluence with Smiths Fork in Section 35, Township 28 North, Range 118 West, Sixth Principal Meridian, Wyoming;

"25. 'Hilliard East Fork Canal' means that irrigation canal which diverts water from the right bank of the East Fork of Bear River in Summit County, Utah, at a point West 1,310 feet and North 330 feet from the Southeast corner of Section 16, Township 2 North, Range 10 East, Salt Lake Base and Meridian, Utah, and runs in a northerly direction crossing the Utah-Wyoming State line into the Southwest Quarter of Section 21, Township 12 North, Range 119 West, Sixth Principal Meridian, Wyoming;

"26. 'Lannon Canal' means that irrigation canal which diverts water from the right bank of the Bear River in Summit County, Utah, East 1,480 feet from the West Quarter corner of Section 19, Township 3 North, Range 10 East, Salt Lake Base and Meridian, Utah, and runs in a northerly direction crossing the Utah-Wyoming State line into the South Half of Section 20, Township 12 North, Range 119 West, Sixth Principal Meridian, Wyoming;

"27. 'Lone Mountain Ditch' means that irrigation canal which diverts water from the right bank of the Bear River in Summit County, Utah, North 1,535 feet and East 1,120 feet from the West Quarter corner of Section 19, Township 3 North, Range 10 East, Salt Lake Base and Meridian, Utah, and runs in a northerly direction crossing the Utah-Wyoming State line into the South Half of Section 20, Township 12 North, Range 119 West, Sixth Principal Meridian, Wyoming;

"28. 'Hilliard West Side Canal' means that irrigation canal which diverts water from the right bank of the Bear River in Summit County, Utah, at a point North 2,190 feet and East 1,450 feet from the South Quarter corner of Section 13, Township 3 North, Range 9 East, Salt Lake Base and Meridian, Utah, and runs in a northerly direction crossing the Utah-Wyoming State line into the South Half of Section 20, Township 12 North, Range 119 West, Sixth Principal Meridian, Wyoming;

"29. 'Francis Lee Canal' means that irrigation canal which diverts water from the left bank of the Bear River in Uinta County, Wyoming, in the Northeast Quarter corner of Section 30, Township 18 North, Range 120 West, Sixth Principal Meridian, Wyoming, and runs in a westerly direction across the Wyoming-Utah State line into Section 16, Township 9 North, Range 8 East, Salt Lake Base and Meridian, Utah;

"30. 'Chapman Canal' means that irrigation canal which diverts water from the left bank of the Bear River in Uinta County, Wyoming, in the Northeast Quarter of Section 36, Township 16 North, Range 121 West, Sixth Principal Meridian, Wyoming, and runs in a northerly direction crossing over the low divided into the Saleratus drainage basin near the Southeast corner of Section 36,

Township 17 North, Range 121 West, Sixth Principal Meridian, Wyoming, and then in a general westerly direction crossing the Wyoming-Utah State line;

"31. 'Neponset Reservoir' means that reservoir located principally in Sections 34 and 35, Township 8 North, Range 7 East, Salt Lake Base and Meridian, Utah, having a capacity of 6,900 acre-feet.

"ARTICLE III

Bear River Commission, establishment and membership.

"A. There is hereby created an interstate administrative agency to be known as the 'Bear River Commission' which is hereby constituted a legal entity and in such name shall exercise the powers hereinafter specified. The Commission shall be composed of nine Commissioners, three Commissioners representing each signatory State, and if appointed by the President, one additional Commissioner representing the United States of America who shall serve as chairman, without vote. Each Commissioner, except the chairman, shall have one vote. The State Commissioners shall be selected in accordance with State law. Six Commissioners who shall include two Commissioners from each State shall constitute a quorum. The vote of at least two-thirds of the Commissioners when a quorum is present shall be necessary for the action of the Commission.

Compensation and expenses.

"B. The compensation and expenses of each Commissioner and each adviser shall be paid by the government which he represents. All expenses incurred by the Commission in the administration of this Compact, except those paid by the United States of America, shall be paid by the signatory States on an equal basis.

Powers.

"C. The Commission shall have power to:

"1. Adopt bylaws, rules, and regulations not inconsistent with this Compact;

"2. Acquire, hold, convey or otherwise dispose of property;

"3. Employ such persons and contract for such services as may be necessary to carry out its duties under this Compact;

"4. Sue and be sued as a legal entity in any court of record of a signatory State, and in any court of the United States having jurisdiction of such action;

"5. Co-operate with State and Federal agencies in matters relating to water pollution of interstate significance;

"6. Perform all functions required of it by this Compact and do all things necessary, proper or convenient in the performance of its duties hereunder, independently or in co-operation with others, including State and Federal agencies.

"D. The Commission shall:

"1. Enforce this Compact and its order made hereunder by suit or other appropriate action;

Report, transmittal to President and Governors.

"2. Compile a report covering the work of the Commission and expenditures during the current biennium, and an estimate of expenditures for the following biennium and transmit it to the President of the United States and to the Governors of the signatory States on or before July 1 following each biennium.

"ARTICLE IV

Water rights, limitations.

"Rights to direct flow water shall be administered in each signatory State under State law, with the following limitations:

"A. When there is a water emergency, as hereinafter defined for each division, water shall be distributed therein as provided below.

"1. Upper Division

"a. When the divertible flow as defined below for the upper division is less than 1,250 second-feet, a water emergency shall be deemed to exist therein and such divertible flow is allocated for diversion in the river sections of the Division as follows:

"Upper Utah Section Diversions—0.6 percent,
"Upper Wyoming Section Diversions—49.3 percent,
"Lower Utah Section Diversions—40.5 percent,
"Lower Wyoming Section Diversions—9.6 percent.

"Such divertible flow shall be the total of the following five items:

"(1) Upper Utah Section Diversions in second-feet,
"(2) Upper Wyoming Section Diversions in second-feet,
"(3) Lower Utah Section Diversions in second-feet,
"(4) Lower Wyoming Section Diversions in second-feet,
"(5) The flow in second-feet passing Pixley Dam.

"b. The Hilliard East Fork Canal, Lannon Canal, Lone Mountain Ditch, and Hilliard West Side Canal, which divert water in Utah to irrigate lands in Wyoming, shall be supplied from the divertible flow allocated to the Upper Wyoming Section Diversions.

"c. The Chapman, Bear River, and Francis Lee Canals, which divert water from the main stem of Bear River in Wyoming to irrigate lands in both Wyoming and Utah, shall be supplied from the divertible flow allocated to the Upper Wyoming Section Diversions.

"d. The Beckwith Quinn West Side Canal, which diverts water from the main stem of Bear River in Utah to irrigate lands in both Utah and Wyoming, shall be supplied from the divertible flow allocated to the Lower Utah Section Diversions.

"e. If for any reason the aggregate of all diversions in a river section of the Upper Division does not equal the allocation of water thereto, the unused portion of such allocation shall be available for use in the other river sections in the Upper Division in the following order: (1) In the other river section of the same State in which the unused allocation occurs; and (2) in the river sections of the other State. No permanent right of use shall be established by the distribution of water pursuant to this paragraph e.

"f. Water allocated to the several sections shall be distributed in each section in accordance with State law.

"2. Central Division

"a. When either the divertible flow as hereinafter defined for the Central Division is less than 870 second-feet, or the flow of the Bear River at Border Gaging Station is less than 350 second-feet, whichever shall first occur, a water emergency shall be deemed to exist in the Central Division and the total of all diversions in Wyoming from Grade Creek, Pine Creek, Bruner Creek and Pine Creek Springs, Spring Creek, Sublette Creek, Smiths Fork, and all the tributaries of Smiths Fork above the mouth of Hobble Creek including Hobble Creek, and from the main stem of the Bear River between Pixley Dam and the point where the river crosses the Wyoming-Idaho State line near Border shall be limited for the benefit of the State of Idaho, to not exceeding forty-three (43) percent of the divertible flow. The remaining fifty-seven (57) percent of the divertible flow shall be available for use in Idaho in the Central Division, but if any portion of such allocation is not used therein it shall be available for use in Idaho in the Lower Division.

"The divertible flow for the Central Division shall be the total of the following three items:

"(1) Diversions in second-feet in Wyoming consisting of the sum of all diversions from Grade Creek, Pine Creek, Bruner Creek and Pine Creek Springs, Spring Creek, Sublette Creek, and Smiths Fork and all the tributaries of Smiths Fork above the mouth of Hobble Creek including Hobble Creek, and the main stem of the Bear River between Pixley Dam and the point where the river crosses the Wyoming-Idaho State line near Border, Wyoming.

"(2) Diversions in second-feet in Idaho from the Bear River main stem from the point where the river crosses the Wyoming-Idaho State line near Border to Stewart Dam including West Fork Canal which diverts at Stewart Dam.

"(3) Flow in second-feet of the Rainbow Inlet Canal and of the Bear River passing downstream from Stewart Dam.

"b. The Cook Canal, which diverts water from the main stem of the Bear River in Wyoming to irrigate lands in both Wyoming and Idaho, shall be considered a Wyoming diversion and shall be supplied from the divertible flow allocated to Wyoming.

"c. Water allocated to each State shall be distributed in accordance with State law.

"3. Lower Division

"a. When the flow of water across the Idaho-Utah boundary line is insufficient to satisfy water rights in Utah, covering water applied to beneficial use prior to January 1, 1976, any water user in Utah may file a petition with the Commission alleging that by reason of diversions in Idaho he is being deprived of water to which he is justly entitled, and that by reason thereof, a water emergency exists, and requesting distribution of water under the direction of the Commission. If the Commission finds a water emergency exists, it shall put into effect water delivery schedules based on priority of rights and prepared by the Commission without regard to the boundary line for all or any part of the Division, and during such emergency, water shall be delivered in accordance with such schedules by the State official charged with the administration of public waters.

"B. The Commission shall have authority upon its own motion (1) to declare a water emergency in any or all river divisions based upon its determination that there are diversions which violate this Compact and which encroach upon water rights in a lower State, (2) to make appropriate orders to prevent such encroachments, and (3) to enforce such orders by action before State administrative officials or by court proceedings.

Emergency declaration authority.

"C. When the flow of water in an interstate tributary across a State boundary line is insufficient to satisfy water rights on such tributary in a lower State, any water user may file a petition with the Commission alleging that by reason of diversions in an upstream State he is being deprived of water to which he is justly entitled and that by reason thereof a water emergency exists, and requesting distribution of water under the direction of the Commission. If the Commission finds that a water emergency exists and that interstate control of water of such tributary is necessary, it shall put into effect water delivery schedules based on priority of rights and prepared without regard to the State boundary line. The State officials in charge of water distribution on interstate tributaries may appoint and fix the compensation and expenses of a joint water commissioner for each tributary. The proportion of the compensation and expenses

User's water rights, petition filing.

Water delivery schedules.

Joint water commissioner.

to be paid by each State shall be determined by the ratio between the number of acres therein which are irrigated by diversions from such tributary, and the total number of acres irrigated from such tributary.

Interstate water delivery schedules, findings of fact.

"D. In preparing interstate water delivery schedules the Commission, upon notice and after public hearings, shall make findings of fact as to the nature, priority, and extent of water rights, rates of flow, duty of water, irrigated acreages, types of crops, time of use, and related matters; provided that such schedules shall recognize and incorporate therein priority of water rights as adjudicated in each of the signatory States. Such findings of fact shall, in any court or before any tribunal, constitute prima facie evidence of the facts found.

Prima facie evidence.

Emergency termination.

"E. Water emergencies provided for herein shall terminate on September 30 of each year unless terminated sooner or extended by the Commission.

"ARTICLE V

Lower Division water rights, Idaho and Utah.

"A. Water rights in the Lower Division acquired under the laws of Idaho and Utah covering water applied to beneficial use prior to January 1, 1976, are hereby recognized and shall be administered in accordance with State law based on priority of rights as provided in Article IV, paragraph A3. Rights to water first applied to beneficial use on or after January 1, 1976, shall be satisfied from the respective allocations made to Idaho and Utah in this paragraph and the water allocated to each State shall be administered in accordance with State law. Subject to the foregoing provisions, the remaining water in the Lower Division, including ground water tributary to the Bear River, is hereby apportioned for use in Idaho and Utah as follows:

"(1) Idaho shall have the first right to the use of such remaining water resulting in an annual depletion of not more than 125,000 acre-feet.

"(2) Utah shall have the second right to the use of such remaining water resulting in an annual depletion of not more than 275,000 acre-feet.

"(3) Idaho and Utah shall each have an additional right to deplete annually on an equal basis, 75,000 acre-feet of the remaining water after the rights provided by subparagraphs (1) and (2) above have been satisfied.

"(4) Any remaining water in the Lower Division after the allocations provided for in subparagraphs (1), (2), and (3) above have been satisfied shall be divided; thirty (30) percent to Idaho and seventy (70) percent to Utah.

Allocation charge.

"B. Water allocated under the above subparagraphs shall be charged against the State in which it is used regardless of the location of the point of diversion.

Depletions.

"C. Water depletions permitted under provisions of subparagraphs (1), (2), (3), and (4) above, shall be calculated and administered by a Commission-approved procedure.

"ARTICLE VI

Reservoir storage rights.

"A. Existing storage rights in reservoirs constructed above Stewart Dam prior to February 4, 1955, are as follows:

"Idaho	324 acre-feet
"Utah	11,850 acre-feet
"Wyoming	2,150 acre-feet

"Additional rights are hereby granted to store in any water year above Stewart Dam, 35,500 acre-feet of Bear River water and no more

under this paragraph for use in Utah and Wyoming; and to store in any water year in Idaho or Wyoming on Thomas Fork 1,000 acre-feet of water for use in Idaho. Such additional storage rights shall be subordinate to, and shall not be exercised when the effect thereof will be to impair or interfere with (1) existing direct flow rights for consumptive use in any river division and (2) existing storage rights above Stewart Dam, but shall not be subordinate to any right to store water in Bear Lake or elsewhere below Stewart Dam. One-half of the 35,500 acre-feet of additional storage right above Stewart Dam so granted to Utah and Wyoming is hereby allocated to Utah, and the remaining one-half thereof is allocated to Wyoming.

"B. In addition to the rights defined in Paragraph A of this Article, further storage entitlements above Stewart Dam are hereby granted. Wyoming and Utah are granted an additional right to store in any year 70,000 acre-feet of Bear River water for use in Utah and Wyoming to be divided equally; and Idaho is granted an additional right to store 4,500 acre-feet of Bear River water in Wyoming or Idaho for use in Idaho. Water rights granted under this paragraph and water appropriated, including ground water tributary to Bear River, which is applied to beneficial use on or after January 1, 1976, shall not result in an annual increase in depletion of the flow of the Bear River and its tributaries above Stewart Dam of more than 28,000 acre-feet in excess of the depletion as of January 1, 1976. Thirteen thousand (13,000) acre-feet of the additional depletion above Stewart Dam is allocated to each of Utah and Wyoming, and two thousand (2,000) acre-feet is allocated to Idaho. Additional storage rights.

"The additional storage rights provided for in this Paragraph shall be subordinate to, and shall not be exercised when the effect thereof will be to impair or interfere with (1) existing direct flow rights for consumptive use in any river division and (2) existing storage rights above Stewart Dam, but shall not be subordinate to any right to store water in Bear Lake or elsewhere below Stewart Dam; provided, however, there shall be no diversion of water to storage above Stewart Dam under this Paragraph B when the water surface elevation of Bear Lake is below 5,911.00 feet, Utah Power & Light Company datum (the equivalent of elevation 5,913.75 feet based on the sea level datum of 1929 through the Pacific Northwest Supplementary Adjustment of 1947). Water depletions permitted under this Paragraph B shall be calculated and administered by a Commission-approved procedure. Limitations.

"C. In addition to the rights defined in Article VI, Paragraphs A and B, Idaho, Utah and Wyoming are granted the right to store and use water above Stewart Dam that otherwise would be bypassed or released from Bear Lake at times when all other direct flow and storage rights are satisfied. The availability of such water and the operation of reservoir space to store water above Bear Lake under this paragraph shall be determined by a Commission-approved procedure. The storage provided for in this Paragraph shall be subordinate to all other storage and direct flow rights in the Bear River. Storage rights under this Paragraph shall be exercised with equal priority on the following basis: six (6) percent thereof to Idaho; forty-seven (47) percent thereof to Utah; and forty-seven (47) percent thereof to Wyoming.

"D. The waters of Bear Lake below elevation 5,912.91 feet, Utah Power and Light Company Bear Lake datum (the equivalent of elevation 5,915.66 feet based on the sea level datum of 1929 through the Pacific Northwest Supplementary Adjustment of 1947) shall constitute a reserve for irrigation. The water of such reserve shall not Irrigation reserve.

be released solely for the generation of power, except in emergency, but after release for irrigation it may be used in generating power if not inconsistent with its use for irrigation. Any water in Bear Lake in excess of that constituting the irrigation reserve may be used for the generation of power or for other beneficial uses. As new reservoir capacity above the Stewart Dam is constructed to provide additional storage pursuant to Paragraph A of this Article, the Commission shall make a finding in writing as to the quantity of additional storage and shall thereupon make an order increasing the irrigation reserve in accordance with the following table:

"Additional Storage (Acre-feet)	Lake surface elevation, Utah Power and Light Company, Bear Lake datum
5,000	5,913.24
10,000	5,913.56
15,000	5,913.87
20,000	5,914.15
25,000	5,914.41
30,000	5,914.61
35,500	5,914.69
36,500	5,914.70

"E. Subject to existing rights, each State shall have the use of water, including groundwater, for ordinary domestic, and stock watering purposes, as determined by State law and shall have the right to impound water for such purposes in reservoirs having storage capacities not in excess, in any case, of 20 acre-feet, without deduction from the allocation made by paragraphs A, B, and C of this Article.

"F. The storage rights in Bear Lake are hereby recognized and confirmed subject only to the restrictions hereinbefore recited.

"ARTICLE VII

Development projects.

"It is the policy of the signatory States to encourage additional projects for the development of the water resources of the Bear River to obtain the maximum beneficial use of water with a minimum of waste, and in furtherance of such policy, authority is granted within the limitations provided by this Compact, to investigate, plan, construct, and operate such projects without regard to State boundaries, provided that water rights for each such project shall, except as provided in Article VI, paragraphs A and B, thereof, be subject to rights theretofore initiated and in good standing.

"ARTICLE VIII

Water rights, acquisition.

"A. No State shall deny the right of the United States of America, and subject to the conditions hereinafter contained, no State shall deny the right of another signatory State, any person or entity of another signatory State, to acquire rights to the use of water or to construct or to participate in the construction and use of diversion works and storage reservoirs with appurtenant works, canals, and conduits in one State for use of water in another State, either directly or by exchange. Water rights acquired for out-of-state use shall be appropriated in the State where the point of diversion is located in the manner provided by law for appropriation of water for use within such State.

Property rights, acquisition.

"B. Any signatory State, any person or any entity of any signatory State, shall have the right to acquire in any other signatory State such property rights as are necessary to the use of water in conformity with this Compact by donation, purchase, or, as hereinafter

provided through the exercise of the power of eminent domain in accordance with the law of the State in which such property is located. Any signatory State, upon the written request of the Governor of any other signatory State for the benefit of whose water users property is to be acquired in the State to which such written request is made, shall proceed expeditiously to acquire the desired property either by purchase at a price acceptable to the requesting Governor, or if such purchase cannot be made, then through the exercise of its power of eminent domain and shall convey such property to the requesting State or to the person, or entity designated by its Governor provided, that all costs of acquisition and expenses of every kind and nature whatsoever incurred in obtaining such property shall be paid by the requesting State or the person or entity designated by its Governor.

"C. Should any facility be constructed in a signatory State by and for the benefit of another signatory State or persons or entities therein, as above provided, the construction, repair, replacement, maintenance and operation of such facility shall be subject to the laws of the State in which the facility is located.

Facilities, State authority.

"D. In the event lands or other taxable facilities are acquired by a signatory State in another signatory State for the use and benefit of the former, the users of the water made available by such facilities, as a condition precedent to the use thereof, shall pay to the political subdivisions of the State in which such facilities are located, each and every year during which such rights are enjoyed for such purposes, a sum of money equivalent to the average of the amount of taxes annually levied and assessed against the land and improvements thereon during the ten years preceding the acquisition of such land. Said payments shall be in full reimbursement for the loss of taxes in such political subdivision of the State.

Facilities, taxation.

"E. Rights to the use of water acquired under this Article shall in all respects be subject to this Compact.

"ARTICLE IX

"Stored water, or water from another watershed may be turned into the channel of the Bear River in one State and a like quantity, with allowance for loss by evaporation, transpiration, and seepage, may be taken out of the Bear River in another State either above or below the point where the water is turned into the channel, but in making such exchange the replacement water shall not be inferior in quality for the purpose used or diminished in quantity. Exchanges shall not be permitted if the effect thereof is to impair vested rights or to cause damage for which no compensation is paid. Water from another watershed or source which enters the Bear River by actions within a State may be claimed exclusively by that State and use thereof by that State shall not be subject to the depletion limitations of Articles IV, V and VI. Proof of any claimed increase in flow shall be the burden of the State making such claim, and it shall be approved only by the unanimous vote of the Commission.

Water exchanges.

"ARTICLE X

"A. The following rights to the use of Bear River water carried in interstate canals are recognized and confirmed.

Interstate canals, water use.

"Name of Canal	Date of priority	Primary right second-feet	Lands irrigated	
			Acres	State
Hilliard East Fork	1914	28.00	2,644	Wyoming
Chapman	8-13-86	16.46	1,155	Wyoming
	8-13-86	98.46	6,892	Utah
	4-12-12	.57	40	Wyoming
	5- 3-12	4.07	285	Utah
	5-21-12	10.17	712	Utah
	2- 6-13	.79	55	Wyoming
	8-28-05	[1]134.00		
Francis Lee	1879	2.20	154	Wyoming
	1879	7.41	519	Utah

"[1]Under the right as herein confirmed not to exceed 134 second-feet may be carried across the Wyoming-Utah State line in the Chapman Canal at any time for filling the Neponset Reservoir, for irrigation of land in Utah and for other purposes. The storage right in Neponset Reservoir is for 6,900 acre-feet, which is a component part of the irrigation right for the Utah lands listed above.

"All other rights to the use of water carried in interstate canals and ditches, as adjudicated in the State in which the point of diversion is located, are recognized and confirmed.

Administration.

"B. All interstate rights shall be administered by the State in which the point of diversion is located and during times of water emergency, such rights shall be filled from the allocations specified in Article IV hereof for the Section in which the point of diversion is located, with the exception that the diversion of water into the Hilliard East Fork Canal, Lannon Canal, Lone Mountain Ditch, and Hilliard West Side Canal shall be under the administration of Wyoming. During times of water emergency these canals and the Lone Mountain Ditch shall be supplied from the allocation specified in Article IV for the Upper Wyoming Section Diversions.

"ARTICLE XI

Applications.

"Applications for appropriation, for change of point of diversion, place and nature of use, and for exchange of Bear River water shall be considered and acted upon in accordance with the law of the State in which the point of diversion is located, but no such application shall be approved if the effect thereof will be to deprive any water user in another State of water to which he is entitled, nor shall any such application be approved if the effect thereof will be an increase in the depletion of the flow of the Bear River and its tributaries beyond the limits authorized in each State in Articles IV, V and VI of this Compact. The official of each State in charge of water administration shall, at intervals and in the format established by the Commission, report on the status of use of the respective allocations.

Allocation status report.

"ARTICLE XII

"Nothing in this Compact shall be construed to prevent the United States, a signatory State or political subdivision thereof, person, corporation, or association, from instituting or maintaining any action or proceeding, legal or equitable, for the protection of any right under State or Federal law or under this Compact.

"ARTICLE XIII

"Nothing contained in this Compact shall be deemed:

"1. To affect the obligations of the United States of America to the Indian tribes;

"2. To impair, extend or otherwise affect any right or power of the United States, its agencies or instrumentalities involved herein; nor the capacity of the United States to hold or acquire additional rights to the use of the water of the Bear River;

"3. To subject any property or rights of the United States to the laws of the States which were not subject thereto prior to the date of this Compact;

"4. To subject any property of the United States to taxation by the States or any subdivision thereof, nor to obligate the United States to pay any State or subdivision thereof for loss of taxes.

"ARTICLE XIV

Commission review and proposed amendments.

"At intervals not exceeding twenty years, the Commission shall review the provisions hereof, and after notice and public hearing, may propose amendments to any such provision, provided, however, that the provisions contained herein shall remain in full force and effect until such proposed amendments have been ratified by the legislatures of the signatory States and consented to by Congress.

"ARTICLE XV

Termination of Compact.

"This Compact may be terminated at any time by the unanimous agreement of the signatory States. In the event of such termination all rights established under it shall continue unimpaired.

"ARTICLE XVI

Constitutionality of provision.

"Should a court of competent jurisdiction hold any part of this Compact to be contrary to the constitution of any signatory State or to the Constitution of the United States, all other severable provisions of this Compact shall continue in full force and effect.

"ARTICLE XVII

Ratification and notice.

"This Compact shall be in effect when it shall have been ratified by the Legislature of each signatory State and consented to by the Congress of the United States of America. Notice of ratification by the legislatures of the signatory States shall be given by the Governor of each signatory State to the Governor of each of the other signatory States and to the President of the United States of America, and the President is hereby requested to give notice to the Governor of each of the signatory States of approval by the Congress of the United States of America.

"IN WITNESS WHEREOF, the Commissioners and their advisers have executed this Compact in five originals, one of which shall be deposited with the General Services Administration of the United States of America, one of which shall be forwarded to the Governor of each of the signatory States, and one of which shall be made a part of the permanent records of the Bear River Commission.

79-194 O—81—pt. 1——5 : QL3

"Done at Salt Lake City, Utah, this 22nd day of December, 1978.
"For the State of Idaho:
"(s) Clifford J. Skinner
"(s) J. Daniel Roberts
"(s) Don W. Gilbert
"For the State of Utah:
"(s) S. Paul Holmgren
"(s) Simeon Weston
"(s) Daniel F. Lawrence
"For the State of Wyoming:
"(s) George L. Christopulos
"(s) J. W. Myers
"(s) John A. Teichert
"Approved:
"Wallace N. Jibson
"Representative of the United States of America
"Attest:
"Daniel F. Lawrence
"Secretary of the Bear River Commission."

Approved February 8, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-524 (Comm. on Interior and Insular Affairs).
SENATE REPORT No. 96-526 accompanying S. 1489 (Comm. on the Judiciary).
CONGRESSIONAL RECORD:
Vol. 125 (1979): Nov. 27, considered and passed House.
Dec. 20, S. 1489 considered and passed Senate.
Vol. 126 (1980): Jan. 23, considered and passed Senate.

Public Law 96-190
96th Congress

An Act

To provide financial assistance for the development and maintenance of effective, fair, inexpensive, and expeditious mechanisms for the resolution for minor disputes.

Feb. 12, 1980
[S. 423]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Dispute Resolution Act.

SHORT TITLE

SECTION 1. This Act may be cited as the "Dispute Resolution Act". 28 USC app.

SEC. 2. (a) The Congress finds and declares that— 28 USC app.

(1) for the majority of Americans, mechanisms for the resolution of minor disputes are largely unavailable, inaccessible, ineffective, expensive, or unfair;

(2) the inadequacies of dispute resolution mechanisms in the United States have resulted in dissatisfaction and many types of inadequately resolved grievances and disputes;

(3) each individual dispute, such as that between neighbors, a consumer and seller, and a landlord and tenant, for which adequate resolution mechanisms do not exist may be of relatively small social or economic magnitude, but taken collectively such disputes are of enormous social and economic consequence;

(4) there is a lack of necessary resources or expertise in many areas of the Nation to develop new or improved consumer dispute resolution mechanisms, neighborhood dispute resolution mechanisms, and other necessary dispute resolution mechanisms;

(5) the inadequacy of dispute resolution mechanisms throughout the United States is contrary to the general welfare of the people;

(6) neighborhood, local, or community based dispute resolution mechanisms can provide and promote expeditious, inexpensive, equitable, and voluntary resolution of disputes, as well as serve as models for other dispute resolution mechanisms; and

(7) the utilization of neighborhood, local, or community resources, including volunteers (and particularly senior citizens) and available building space such as space in public facilities, can provide for accessible, cost-effective resolution of minor disputes.

(b) It is the purpose of this Act to assist the States and other interested parties in providing to all persons convenient access to dispute resolution mechanisms which are effective, fair, inexpensive, and expeditious.

DEFINITIONS

SEC. 3. For purposes of this Act— 28 USC app.

(1) the term "Advisory Board" means the Dispute Resolution Advisory Board established under section 7(a);

(2) the term "Attorney General" means the Attorney General of the United States (or the designee of the Attorney General of the United States);

(3) the term "Center" means the Dispute Resolution Resource Center established under section 6(a);

(4) the term "dispute resolution mechanism" means—

(A) a court with jurisdiction over minor disputes;

(B) a forum which provides for arbitration, mediation, conciliation, or a similar procedure, which is available to resolve a minor dispute; or

(C) a governmental agency or mechanism with the objective of resolving minor disputes;

(5) the term "grant recipient" means any State or local government, any State or local governmental agency, and any nonprofit organization which receives a grant under section 8;

(6) the term "local" means of or pertaining to any political subdivision of a State; and

(7) the term "State" means the several States, the District of Columbia, the Commonwealth of Puerto Rico, or any of the territories and possessions of the United States.

CRITERIA FOR DISPUTE RESOLUTION MECHANISMS

28 USC app.

SEC. 4. Any grant recipient which desires to use any financial assistance received under this Act in connection with establishing or maintaining a dispute resolution mechanism shall provide satisfactory assurances to the Attorney General that the dispute resolution mechanism will provide for—

(1) assistance to persons using the dispute resolution mechanism;

(2) the resolution of disputes at times and locations which are convenient to persons the dispute resolution mechanism is intended to serve;

(3) adequate arrangements for participation by persons who are limited by language barriers or other disabilities;

(4) reasonable, fair, and readily understandable forms, rules, and procedures, which shall include, where appropriate, those which would—

(A) ensure that all parties to a dispute are directly involved in the resolution of the dispute, and that the resolution is adequately implemented;

(B) promote, where feasible, the voluntary resolution of disputes (including the resolution of disputes by the parties before resorting to the dispute resolution mechanism established by the grant recipient);

(C) promote the resolution of disputes by persons not ordinarily involved in the judicial system;

(D) provide an easy way for any person to determine the proper name in which, and the proper procedure by which, any person may be made a party to a dispute resolution proceeding;

(E) permit the use of dispute resolution mechanisms by the business community if State law so permits; and

(F) ensure reasonable privacy protection for individuals involved in the dispute resolution process;

(5) the dissemination of information relating to the availability, location, and use of other redress mechanisms in the event that dispute resolution efforts fail or the dispute involved does not come within the jurisdiction of the dispute resolution mechanism;

(6) consultation and cooperation with the community and with governmental agencies; and

(7) the establishment of programs or procedures for effectively, economically, and appropriately communicating to disputants the availability and location of the dispute resolution mechanism.

DEVELOPMENT OF DISPUTE RESOLUTION MECHANISMS BY STATES

SEC. 5. Each State is hereby encouraged to develop— 28 USC app.

(1) sufficient numbers and types of readily available dispute resolution mechanisms which meet the criteria established in section 4; and

(2) a public information program which effectively communicates to potential users the availability and location of such dispute resolution mechanisms. Public information program.

ESTABLISHMENT OF PROGRAM; DISPUTE RESOLUTION RESOURCE CENTER

SEC. 6. (a) The Attorney General shall establish a Dispute Resolution Program in the Department of Justice. Such program shall include establishment of a Dispute Resolution Resource Center and a Dispute Resolution Advisory Board and the provision of financial assistance under section 8. 28 USC app.

(b) The Center— Functions.

(1) shall serve as a national clearinghouse for the exchange of information concerning the improvement of existing dispute resolution mechanisms and the establishment of new dispute resolution mechanisms;

(2) shall provide technical assistance to State and local governments and to grant recipients to improve existing dispute resolution mechanisms and to establish new dispute resolution mechanisms;

(3) shall conduct research relating to the improvement of existing dispute resolution mechanisms and to the establishment of new dispute resolution mechanisms, and shall encourage the development of new dispute resolution mechanisms;

(4) shall undertake comprehensive surveys of the various State and local governmental dispute resolution mechanisms and major privately operated dispute resolution mechanisms in the States, which shall determine— Surveys.

(A) the nature, number, and location of dispute resolution mechanisms in each State;

(B) the annual expenditure and operating authority for each such mechanism;

(C) the existence of any program for informing the potential users of the availability of each such mechanism;

(D) an assessment of the present use of, and projected demand for, the services offered by each such mechanism; and

(E) other relevant data relating to the types of disputes addressed by each such mechanism including the average cost and time expended in resolving various types of disputes;

(5) shall identify, after consultation with the Advisory Board, those dispute resolution mechanisms or aspects thereof which—

(A) are most fair, expeditious, and inexpensive to all parties in the resolution of disputes; and

(B) are suitable for general adoption;

(6) shall make recommendations, after consultation with the Advisory Board, regarding the need for new or improved dispute resolution mechanisms and similar mechanisms;

(7) shall identify, after consultation with the Advisory Board, the types of minor disputes which are most amenable to resolution through specific dispute resolution techniques, in order to assist the Attorney General in determining the types of projects which shall receive financial assistance under section 8;

(8) shall, as soon as practicable after the date of the enactment of this Act, undertake an information program to advise potential grant recipients, and the chief executive officer, attorney general, and chief judicial officer of each State, of the availability of funds, and eligibility requirements, under this Act;

Grants and contracts.

(9) may make grants to, or enter into contracts with, to the extent or in such amounts as are provided in appropriation Acts, public agencies, institutions of higher education, and qualified persons to conduct research, demonstrations, or special projects designed to carry out the provisions of paragraphs (1) through (7); and

(10) in awarding such grants and entering into such contracts, shall have as one of its major priorities dispute resolution mechanisms that resolve consumer disputes.

(c) Upon request of the Center, the Community Relations Service of the Department of Justice and the Federal Mediation and Conciliation Service are authorized to assist the Center in performing its functions under this section.

Detailed Federal employees.

(d) Upon the request of the Attorney General, not more than a total of ten Federal employees from the various executive agencies (as defined in section 105 of title 5, United States Code) may be detailed to the Center to assist the Center to perform its functions under this Act. The head of any such agency, with the consent of the employee concerned, may enter into an agreement with the Attorney General to provide for the detail of any employee of his agency for a period of not more than five years, notwithstanding the time limitation contained in section 3341 of title 5, United States Code. An employee detailed under this section is considered, for the purpose of preserving his allowances, privileges, rights, seniority, and other benefits, an employee of the agency from which detailed. Such employee is entitled to pay, allowances, and other benefits from funds available to the agency from which such employee is detailed, except that the Department of Justice shall pay to such employee all travel expenses and allowances payable for services performed during the detail.

Travel expenses and allowances.

DISPUTE RESOLUTION ADVISORY BOARD

28 USC app.

SEC. 7. (a) The Attorney General shall establish a Dispute Resolution Advisory Board in the Department of Justice.

Functions.

(b) The Advisory Board shall—

(1) advise the Attorney General with respect to the administration of the Center under section 6 and the administration of the financial assistance program under section 8;

(2) consult with the Center in accordance with the provisions of section 6(b)(5), section 6(b)(6), and section 6(b)(7); and

(3) consult with the Attorney General in accordance with the provisions of sections 8(b)(4) and 9(d).

Membership.

(c)(1) The Advisory Board shall consist of nine members appointed by the Attorney General, and shall be composed of persons from State

governments, local governments, business organizations, the academic or research community, neighborhood organizations, community organizations, consumer organizations, the legal profession, and State courts.

(2) A vacancy in the Advisory Board shall be filled in the same manner as the original appointment. Vacancies.

(3)(A) Except as provided in subparagraph (B), members of the Advisory Board shall be appointed for terms which expire at the end of September 30, 1984. Terms.

(B) Any member appointed to fill a vacancy occurring before the expiration of the term for which the predecessor of such member was appointed shall be appointed only for the remainder of the term.

(d) While away from their homes or regular places of business in the performance of services for the Advisory Board, members of the Advisory Board shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Federal Government service are allowed expenses under section 5703 of title 5, United States Code. The members of the Advisory Board shall receive no compensation for their services except as provided in this subsection. Travel expenses and per diem.

(e) The Chairman of the Federal Trade Commission may advise and consult with the Attorney General, and may consult with the Center, regarding matters within its jurisdiction.

FINANCIAL ASSISTANCE

SEC. 8. (a) The Attorney General may provide financial assistance in the form of grants to applicants who have submitted, in accordance with subsection (c), applications for the purpose of improving existing dispute resolution mechanisms or establishing new dispute resolution mechanisms. 28 USC app.

(b) As soon as practicable after the date of the enactment of this Act, the Attorney General shall prescribe— Grant applications.

(1) the form and content of applications for financial assistance to be submitted in accordance with subsection (c);

(2) the time schedule for submission of such applications;

(3) the procedures for approval of such applications, and for notification to each State of financial assistance awarded to applicants in the State for any fiscal year;

(4) after consultation with the Advisory Board, the specific criteria for awarding grants to applicants under this section, which shall— Development of criteria.

(A) be consistent with the criteria established in section 4;

(B) take into account—

(i) the population and population density of the States in which applicants for financial assistance available under this section are located;

(ii) the financial need of States and localities in which such applicants are located;

(iii) the need in the State or locality involved for the type of dispute resolution mechanism proposed;

(iv) the national need for experience with the type of dispute resolution mechanism proposed; and

(v) the need for obtaining experience in each region of the Nation with dispute resolution mechanisms in a diversity of situations, including rural, suburban, and urban situations; and

(C) provide that one of the major priorities of the Attorney General shall be the funding of dispute resolution mechanisms that resolve consumer disputes;

Reports.

(5)(A) the form and content of such reports to be filed under this section as may be reasonably necessary to monitor compliance with the requirements of this Act and to evaluate the effectiveness of projects funded under this Act; and

(B) the procedures to be followed by the Attorney General in reviewing such reports;

(6) the manner in which financial assistance received under this section may be used, consistent with the purposes specified in subsection (e); and

Publication in Federal Register.

(7) procedures for publishing in the Federal Register a notice and summary of approved applications.

(c) Any State or local government, State or local governmental agency, or nonprofit organization shall be eligible to receive a grant for financial assistance under this section. Any such entity which desires to receive a grant under this section may submit an application to the Attorney General in accordance with the specific criteria established by the Attorney General under subsection (b)(4). Such application shall—

Application contents.

(1) set forth a proposed plan demonstrating the manner in which the financial assistance will be used—

(A) to establish a new dispute resolution mechanism which satisfies the criteria specified in section 4; or

(B) to improve an existing dispute resolution mechanism in order to bring such mechanism into compliance with such criteria;

(2) set forth the types of disputes to be resolved by the dispute resolution mechanism;

(3) identify the person responsible for administering the project set forth in the application;

(4) include an estimate of the cost of the proposed project;

(5) provide for the establishment of fiscal controls and fund accounting of Federal financial assistance received under this Act;

(6) provide for the submission of reports in such form and containing such information as the Attorney General may require under subsection (b)(5)(A);

(7) set forth the nature and extent of participation of interested parties, including representatives of those individuals whose disputes are to be resolved by the mechanism, in the development of the application; and

(8) describe the qualifications, period of service, and duties of persons who will be charged with resolving or assisting in the resolution of disputes.

(d) The Attorney General, in determining whether to approve any application for financial assistance to carry out a project under this section, shall give special consideration to projects which are likely to continue in operation after expiration of the grant made by the Attorney General.

Use of assistance funds.

(e)(1) Financial assistance available under this section may be used only for the following purposes—

(A) compensation of personnel engaged in the administration, adjudication, conciliation, or settlement of minor disputes, including personnel whose function is to assist in the preparation and resolution of claims and the collection of judgments;

(B) recruiting, organizing, training, and educating personnel described in subparagraph (A);

(C) improvement or leasing of buildings, rooms, and other facilities and equipment and leasing or purchase of vehicles needed to improve the settlement of minor disputes;

(D) continuing monitoring and study of the mechanisms and settlement procedures employed in the resolution of minor disputes in a State;

(E) research and development of effective, fair, inexpensive, and expeditious mechanisms and procedures for the resolution of minor disputes;

(F) sponsoring programs of nonprofit organizations to carry out any of the provisions of this paragraph; and

(G) other necessary expenditures directly related to the operation of new or improved dispute resolution mechanisms.

(2) Financial assistance available under this section may not be used for the compensation of attorneys for the representation of disputants or claimants or for otherwise providing assistance in any adversary capacity. Restriction on financial assistance.

(f)(1) In the case of an application for financial assistance under this section submitted by a local government or governmental agency, the Attorney General shall furnish notice of such application to the chief executive officer, attorney general, and chief judicial officer of the State in which such applicant is located at least thirty days before the approval of such application. The chief executive officer, attorney general, and chief judicial officer of the State shall be given an opportunity to submit written comments to the Attorney General regarding such application and the Attorney General shall take such comments into consideration in determining whether to approve such application. Notice of application to State officers.

(2) In the case of an application for financial assistance under this section submitted by a nonprofit organization, the Attorney General shall furnish notice of such application to the chief executive officer, attorney general, and chief judicial officer of the State in which the applicant is located and to the chief executive officers of the units of general local government in which such applicant is located at least thirty days before the approval of such application. The chief executive officer, attorney general, and chief judicial officer of the State, and the chief executive officers of the units of general local government shall be given an opportunity to submit written comments to the Attorney General regarding such application and the Attorney General shall take such comments into consideration in determining whether to approve such application.

(g)(1) Upon the approval of an application by the Attorney General under this section, the Attorney General shall disburse to the grant recipient involved such portion of the estimated cost of the approved project as the Attorney General considers appropriate, except that the amount of such disbursement shall be subject to the provisions of paragraph (2). Estimated project cost, disbursement.

(2) The Federal share of the estimated cost of any project approved under this section shall not exceed— Federal share.

(A) 100 per centum of the estimated cost of the project, for the first and second fiscal years for which funds are available for grants under this section;

(B) 75 per centum of the estimated cost of the project, for the third fiscal year for which funds are available for such grants; and

(C) 60 per centum of the estimated cost of the project, for the fourth fiscal year for which funds are available for such grants.

Payments.

(3) Payments made under this subsection may be made in installments, in advance, or by way of reimbursement, with necessary adjustments on account of underpayment or overpayment. Such payments shall not be used to compensate for any administrative expense incurred in submitting an application for a grant under this section.

(4) In the case of any State or local government, or State or local governmental agency, which desires to receive financial assistance under this section, such government or agency may not receive any such financial assistance for any fiscal year if its expenditure of non-Federal funds for other than nonrecurrent expenditures for the establishment and administration of dispute resolution mechanisms will be less than its expenditure for such purposes in the preceding fiscal year, unless the Attorney General determines that a reduction in expenditures is reasonable.

Notice and hearing on project compliance.

(h) Whenever the Attorney General, after giving reasonable notice and opportunity for hearing to any grant recipient, finds that the project for which such grant was received no longer complies with the provisions of this Act, or with the relevant application as approved by the Attorney General, the Attorney General shall notify such grant recipient of such findings and no further payments may be made to such grant recipient by the Attorney General until the Attorney General is satisfied that such noncompliance has been, or promptly will be, corrected. The Attorney General may authorize the continuance of payments with respect to any program pursuant to this Act which is being carried out by such grant recipient and which is not involved in the noncompliance.

Independent study, contract.

(i) The Attorney General, to the extent or in such amounts as are provided in appropriation Acts shall enter into a contract for an independent study of the Dispute Resolution Program. The study shall evaluate the performance of such program and determine its effectiveness in carrying out the purpose of this Act. The study shall contain such recommendations for additional legislation as may be appropriate, and shall include recommendations concerning the continuation or termination of the Dispute Resolution Program. Not later than April 1, 1984, the Attorney General shall make public and submit to each House of the Congress a report of the results of the study.

Report to Congress.

(j) No funds for assistance available under this section shall be expended until one year after the date of the enactment of this Act.

RECORDS; AUDIT; ANNUAL REPORT

28 USC app.

SEC. 9. (a) Each grant recipient shall keep such records as the Attorney General shall require, including records which fully disclose the amount and disposition by such grant recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, the amount of that portion of the project or undertaking supplied by other sources, and such other records as will assist in effective financial and performance audits.

Restriction on Attorney General's authority.

(b) The Attorney General shall have access for purposes of audit and examination to any relevant books, documents, papers, and records of grant recipients. The authority of the Attorney General under this subsection is restricted to compiling information necessary to the filing of the annual report required under this section. No

information revealed to the Attorney General pursuant to such audit and examination about an individual or business which has utilized the dispute resolution mechanism of a grant recipient may be used in, or disclosed for, any administrative, civil, or criminal action or investigation against the individual or business except in an action or investigation arising out of and directly related to the program being audited and examined.

(c) The Comptroller General of the United States, or any duly authorized representatives of the Comptroller General, shall have access to any relevant books, documents, papers, and records of grant recipients until the expiration of three years after the final year of the recipient of any financial assistance under this Act, for the purpose of financial and performance audits and examination. Access to records by Comptroller General.

(d) The Attorney General, in consultation with the Advisory Board shall submit to the President and the Congress not later than one year after the date of the enactment of this Act, and on or before February 1 of each succeeding year, a report relating to the administration of this Act during the preceding fiscal year. Such report shall include— Report to President and Congress.

(1) a list of all grants awarded;

(2) a summary of any actions undertaken in accordance with section 8(h);

(3) a listing of the projects undertaken during such fiscal year and the types of other dispute resolution mechanisms which are being created, and, to the extent feasible, a statement as to the success of all mechanisms in achieving the purpose of this Act;

(4) the results of financial and performance audits conducted under this section; and

(5) an evaluation of the effectiveness of the Center in implementing this Act, including a detailed analysis of the extent to which the purpose of this Act has been achieved, together with recommendations with respect to whether and when the program should be terminated and any recommendations for additional legislation or other action.

AUTHORIZATION OF APPROPRIATIONS

SEC. 10. (a) To carry out the provisions of section 6 and section 7, there is authorized, to be appropriated to the Attorney General $1,000,000 for each of the fiscal years 1980, 1981, 1982, 1983, and 1984. 28 USC app.

(b) To carry out the provisions of section 8, there is authorized to be appropriated to the Attorney General $10,000,000 for each of the fiscal years 1981, 1982, 1983, and 1984.

(c) Sums appropriated under this section are authorized to remain available until expended.

Approved February 12, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT: No. 96-492, Pt. 1 (Comm. on Interstate and Foreign Commerce) and Pt. 2 (Comm. on the Judiciary).

CONGRESSIONAL RECORD:

Vol. 125 (1979): Apr. 5, considered and passed Senate.
Dec. 10-12, considered and passed House, amended.

Vol. 126 (1980): Jan. 30, Senate concurred in House amendments.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:

Vol. 16, No. 7 (1980): Feb. 12, Presidential statement.

Public Law 96-191
96th Congress

An Act

To establish an independent personnel system for employees of the General Accounting Office.

Feb. 15, 1980
[H.R. 5176]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "General Accounting Office Personnel Act of 1980".

General Accounting Office Personnel Act of 1980.
31 USC 1 note.

GENERAL PERSONNEL AUTHORITY

SEC. 2. The Comptroller General of the United States (hereinafter referred to as the "Comptroller General") may appoint, pay, assign, and direct such personnel as the Comptroller General determines necessary to discharge the duties and functions of the General Accounting Office.

31 USC 52-1.

ESTABLISHMENT OF PERSONNEL MANAGEMENT SYSTEM

SEC. 3. (a) The Comptroller General shall, not later than the effective date established by section 9(a), establish by regulation a personnel management system for the General Accounting Office (hereinafter referred to as the "personnel system") which shall meet the requirements of subsections (b) through (h). Before promulgating any regulation or any amendment thereto under this section, the Comptroller General shall provide notice and an opportunity for public comment. No reprisal or threat of reprisal shall be made against any employee of the General Accounting Office as a result of comments provided with respect to any proposed regulation or amendment under this section.

31 USC 52-2.

Notice and public comment.

Reprisal.

(b)(1) The personnel system shall—

Functions.

(A) embody the merit system principles described in section 2301(b) of title 5, United States Code;

(B) prohibit the personnel practices prohibited in section 2302(b) of such title;

5 USC 2302.

(C) prohibit the political activities prohibited under subchapter III of chapter 73 of title 5, United States Code;

5 USC 7321.

(D) assure that all employees of the General Accounting Office are appointed, promoted, and assigned solely on the basis of merit and fitness, but without regard to the provisions of title 5, United States Code, governing appointments and other personnel actions in the competitive service; and

(E) in the case of any individual who would be a preference eligible in the executive branch, provide preference for that individual in a manner and to an extent consistent with preference accorded to preference eligibles in the executive branch.

(2) Nothing in this section prohibits or restricts any lawful effort to achieve equal employment opportunity through affirmative action.

(c) The personnel system shall provide that the pay of the employees of the General Accounting Office shall be fixed by the Comptroller General consistent with the principles of section 5301(a) of title 5, United States Code. Under the personnel system—

Employee pay.

Rates, publication.

(1) the Comptroller General shall publish a schedule of pay rates which shall apply to employees of the General Accounting Office and, except as provided in paragraph (3) of this subsection or section 5, the highest rate under such schedule shall not exceed the highest rate of basic pay payable for GS-15 under the General Schedule;

5 USC 5332 note.

(2) except as provided in section 5, the pay of the employees of the General Accounting Office shall be adjusted at the same time and to the same extent as rates of basic pay are adjusted for the General Schedule;

5 USC 5332 note.

5 USC 5332 note.

(3) such schedule may provide for rates which do not exceed the maximum rate payable for grade GS-18 of the General Schedule for up to one hundred employees, reduced by the number of employees who are in the General Accounting Office Senior Executive Service established under section 5, except for employees in such service pursuant to section 5(a)(4); and

(4) employees of the General Accounting Office shall be entitled to grade and pay retention, consistent with the principles of subchapter VI of chapter 53 of title 5, United States Code.

5 USC 5361. Employee performance appraisals.

(d) The personnel system shall include a system for performance appraisals of employees of the General Accounting Office which meets the requirements of section 4302 of title 5, United States Code. The personnel system shall provide that the Comptroller General has the same responsibility with respect to the performance appraisal system under this subsection as the Office of Personnel Management has with respect to the performance appraisal systems under such section. The Comptroller General shall implement the performance system required by this subsection as soon as practicable, but not later than October 1, 1981.

Labor-management relations program.

(e) The personnel system shall provide for procedures to ensure that each employee of the General Accounting Office has the right, freely and without fear of penalty or reprisal, to form, join, and assist an employee organization, or to refrain from such activity, and shall provide for a labor-management relations program, consistent with chapter 71 of title 5, United States Code.

5 USC 7101 *et seq.*

(f) The personnel system shall provide for the reduction in grade or removal of employees based on unacceptable performance consistent with section 4303 of title 5, United States Code, and the taking of other personnel actions consistent with chapter 75 of such title.

5 USC 7501 *et seq.*

Discrimination, prohibitions.

(g)(1) The personnel system shall provide that all personnel actions affecting employees or applicants for employment in the General Accounting Office shall be taken without regard to race, color, religion, age, sex, national origin, political affiliation, marital status, or handicapping condition.

Minority recruitment program.

(2) The personnel system shall include a minority recruitment program consistent with section 7201 of title 5, United States Code.

(3) Nothing in this Act shall be construed to abolish or diminish any right or remedy granted to employees of or applicants for employment in the General Accounting Office by section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-16), by sections 12 and 15 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 631, 633a), by section 6(d) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(d)), by sections 501 and 505 of the Rehabilitation Act of 1973 (29 U.S.C. 791, 794a), or by any other law prohibiting discrimination in Federal employment on the basis of race, color, religion, age, sex, national origin, political affiliation, marital status, or handicapping condition; except that, with respect to employees and applicants for employment in the General Accounting Office, authorities granted thereunder to the Equal Employment Opportunity Commission,

Office of Personnel Management, the Merit Systems Protection Board, or any other agency in the executive branch—

(A) involving oversight and appeals, shall be exercised by the General Accounting Office Personnel Appeals Board established by section 4; and

(B) involving other responsibilities, shall be exercised by the Comptroller General.

(h) The personnel system shall provide procedures for the processing of complaints and grievances which are not otherwise provided for under subsections (e), (f), and (g). Complaints and grievances.

GENERAL ACCOUNTING OFFICE PERSONNEL APPEALS BOARD

SEC. 4. (a)(1) There is established within the General Accounting Office a board to be known as the General Accounting Office Personnel Appeals Board (hereinafter referred to as the "Board"). The Board shall be composed of five members appointed by the Comptroller General in accordance with this subsection. 31 USC 52-3.

(2) Each appointment made by the Comptroller General under paragraph (1) shall be made— Appointments.

(A) from a written list of candidates submitted to the Comptroller General by any organization eligible to make such a submission under paragraph (4); and

(B) after consultation with organizations which represent employees of the General Accounting Office and with the member or members of each committee of the Congress having legislative jurisdiction over the personnel system who are designated by the chair of each such committee to consult with the Comptroller General.

(3) An individual shall be eligible for appointment as a member of the Board only if such individual— Eligibility.

(A) has a total of three years of full-time or part-time experience in the adjudication or arbitration of personnel matters;

(B) is not a current or former officer or employee of the General Accounting Office;

(C) has the demonstrated ability, background, training, and experience necessary to be especially qualified to serve as a member of the Board; and

(D) demonstrates a capacity and willingness to devote sufficient time to service as a member of the Board in order to enable the Board to dispose of cases under this section in a timely manner.

(4) An organization shall be eligible to submit a list of candidates to the Comptroller General under paragraph (2)(A) if, in the opinion of the Comptroller General, the membership of the organization is composed primarily of individuals who are experienced in the adjudication or arbitration of personnel matters. The submission of any list under this paragraph shall be made in the form, at the time, and according to the procedures, which the Comptroller General may require.

(b)(1) Except as provided in paragraph (2), members of the Board shall be appointed for terms of three years. Terms of office.

(2) Of the members first appointed to the Board two shall be appointed for a term of three years, two shall be appointed for a term of two years, and one shall be appointed for a term of one year, as designated by the Comptroller General at the time of appointment.

(3) Members of the Board shall not be eligible for reappointment.

(4) Any vacancy in the membership of the Board shall be filled in the same manner as the original appointment. Any individual Vacancies.

appointed to fill a vacancy shall serve only for the unexpired portion of the term with respect to which such vacancy has occurred, except that, if the unexpired portion is less than one year, the Comptroller General may appoint the individual for a term which is equal to three years plus that unexpired portion.

(5) A member of the Board may continue to serve after the expiration of the term for which the member was appointed until a successor has taken office, except that the member may not so continue to serve for more than six months after the date on which the term for which the member was appointed otherwise would expire under this subsection.

Removal procedures.

(c)(1) A member of the Board may be removed from the Board—

(A) by majority vote of the members of the Board (other than the member who is the subject of the proposed action of removal); and

(B) only for inefficiency, neglect of duty, or malfeasance in office.

Notice and hearing.

(2) Any member of the Board who is the subject of any proposed action of removal under this subsection shall be given notice and opportunity for a hearing before the Board prior to any vote of the members of the Board under paragraph (1)(A). The Board may dispense with the opportunity for a hearing only upon the submission of a written waiver of the hearing to the Chair by the member subject to the proposed action.

Waiver.

Compensation.

(d) Each member of the Board who is not otherwise employed by the United States Government shall receive compensation at a rate equal to the daily rate payable for GS-18 under the General Schedule under section 5332 of title 5, United States Code, including traveltime, for each day such member is engaged in the actual performance of duties as a member of the Board. A member of the Board who is an officer or employee of the United States Government shall serve without additional compensation. All members of the Board shall be entitled to travel expenses and per diem allowances in accordance with section 5703 of title 5, United States Code.

5 USC 5332 note.

Chairperson.

(e) The members of the Board shall select from among the members of the Board a Chair who shall be the chief executive and administrative officer of the Board.

General Counsel.

(f)(1) The Chair shall select and the Comptroller General shall appoint an individual to serve as General Counsel of the Board (hereinafter referred to as the "General Counsel"). The General Counsel shall be eligible for reappointment and shall serve at the pleasure of the Chair.

(2) The Chair shall fix the rate of pay of the General Counsel, except that the rate of pay shall not exceed the maximum rate payable for GS-15 of the General Schedule.

5 USC 5332 note.

Duties.

(g) The General Counsel shall—

(1) investigate any allegation concerning prohibited personnel practices referred to in section 3(b)(1)(B) of this Act to the extent necessary to determine whether there are reasonable grounds to believe that any such practice has occurred, exists, or is to be taken by any employee of the General Accounting Office;

(2) investigate any allegation concerning prohibited political activities referred to in section 3(b)(1)(C) of this Act;

(3) investigate matters under the jurisdiction of the Board if so requested by the Board or any member of the Board; and

(4) otherwise assist the Board in carrying out its functions.

Corrective or disciplinary action, Board authority.

(h) The Board may consider, decide, and order corrective or disciplinary action (as appropriate) in cases arising from—

(1) employee appeals concerning any removal, suspension for

more than fourteen days, reduction in grade, reduction in pay, or furlough of thirty days or less;

(2) prohibited personnel practices referred to in section 3(b)(1)(B);

(3) prohibited political activities referred to in section 3(b)(1)(C) of this Act;

(4) determinations of appropriate units of employees for collective bargaining;

(5) elections and certifications of collective bargaining representatives;

(6) any labor practice prohibited under the labor-management system established under section 3(e) and any other matter appealable to the Board under that system;

(7) actions involving discrimination prohibited under section 3(g); and

(8) any other issue relating to the personnel of the General Accounting Office which the Comptroller General, by regulation, determines is most appropriately resolved by the Board.

(i) The Comptroller General shall promptly implement any corrective action ordered by the Board, in cases in which the Comptroller General has the authority to do so.

(j) The Board shall have authority to designate a panel of its members, or an individual member, to take any action which the Board is authorized to take under subsection (h). Any decision made under subsection (h) by a panel or individual member designated under this subsection shall be considered to be a final decision of the Board unless the decision is reopened and reconsidered by the Board under subsection (k).

(k) The Board may, on the motion of any party or on its own motion, reopen and reconsider any decision under subsection (h) within thirty days after the decision is rendered. Decisions, reconsideration.

(l)(1) Any final decision of the Board (or of any panel or individual member designated under subsection (j)) under subsections (h) (1), (2), (3), (6) and (7) may be appealed to the United States Court of Appeals for the circuit in which the petitioner resides or to the United States Court of Appeals for the District of Columbia. Any appeal under this subsection shall be in accordance with the procedures of chapter 158 of title 28, United States Code. Notwithstanding any other provision of law, any petition for review of a final decision of the Board shall be filed within thirty days after the date the petitioner receives notice of the final decision of the Board. Appeal. 28 USC 2341 *et seq.*

(2) In any case filed under paragraph (1), the court shall review the record and set aside any agency action, findings, or conclusions found to be— Case review.

(A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law;

(B) obtained without procedures required by law, rule, or regulation having been followed; or

(C) unsupported by substantial evidence.

(m) The Board shall promulgate regulations— Regulations.

(1) providing for employee appeals, consistent with the principles of sections 7701 and 7702 of title 5, United States Code; and

(2) establishing its operating procedure.

GAO SENIOR EXECUTIVE SERVICE; MERIT PAY SYSTEM

SEC. 5. (a)(1) The Comptroller General may promulgate regulations establishing a General Accounting Office Senior Executive Service (hereinafter referred to as the GAO Senior Executive Service) which— 31 USC 52-4.

(A) meets the requirements set forth in section 3131 of title 5, United States Code, for the Senior Executive Service;

(B) provides that positions in the GAO Senior Executive Service meet requirements which are consistent with the provisions of section 3132(a)(2) of such title;

5 USC 3132.

(C) provides rates of pay for the GAO Senior Executive Service which are not in excess of the maximum rate or less than the minimum rate of basic pay established for the Senior Executive Service under section 5382 of such title, and which are adjusted at the same time and to the same extent as rates of basic pay for the Senior Executive Service are adjusted;

5 USC 5382.

(D) provides a performance appraisal system for the GAO Senior Executive Service that conforms to the provisions of subchapter II of chapter 43 of such title;

5 USC 4311.

(E) permits the Comptroller General to award ranks to members of the GAO Senior Executive Service consistent with the provisions applicable to the Office of Personnel Management and the President under section 4507 of such title;

5 USC 4507.

(F) provides for removal consistent with section 3592 of such title, and removal or suspension consistent with section 7543 of such title; and

5 USC 3592.
5 USC 7543.

(G) permits the Comptroller General to pay performance awards to members of the GAO Senior Executive Service consistent with the provisions applicable to performance awards under section 5384 of such title.

5 USC 5384.

(2) Except as otherwise provided in paragraph (1), the Comptroller General may make applicable for the GAO Senior Executive Service any of the provisions of title 5, United States Code, applicable to applicants for or members of the Senior Executive Service.

Exception.

(3) Employees in the GAO Senior Executive Service shall not be subject to the provisions of the personnel system established under section 3 (c), (d), (e) and (f).

(4) The GAO Senior Executive Service may include positions referred to in—

(A) section 203(c) of the Federal Legislative Salary Act of 1964 (31 U.S.C. 51a);

(B) section 203(i) of the Federal Legislative Salary Act of 1964 (31 U.S.C. 52b); and

(C) section 204(d) of the Legislative Reorganization Act of 1970 (31 U.S.C. 1154(d)).

Merit pay system.

(b) The Comptroller General may promulgate regulations establishing a merit pay system for such employees of the General Accounting Office as the Comptroller General considers appropriate. The merit pay system shall be designed to carry out purposes consistent with those set forth in section 5401(a) of title 5, United States Code.

NONCOMPETITIVE APPOINTMENTS; TECHNICAL ASSISTANCE

31 USC 52-5.

SEC. 6. (a) Notwithstanding any other provision of law, any employee of the General Accounting Office who has completed at least one year of continuous service under a nontemporary appointment under the personnel system established pursuant to section 3 acquires a competitive status for appointment to any position in the competitive service for which the employee possesses the required qualifications.

(b) The Director of the Office of Personnel Management shall, on request from the Comptroller General, provide technical and consulting services to the Comptroller General in the establishment of the personnel system for the General Accounting Office.

COORDINATION WITH CERTAIN OTHER PROVISIONS OF LAW

SEC. 7. (a) Except as provided under section 5(a)(4), nothing contained in this Act shall be construed as repealing, amending, or otherwise affecting the provisions of— 31 USC 52-6.

(1) sections 302 and 303 of the Budget and Accounting Act, 1921 (31 U.S.C. 42 and 43), or subsections (a) and (b) of section 203 of the Federal Legislative Salary Act of 1964 (31 U.S.C. 42a (a) and (b));

(2) section 203(c) of the Federal Legislative Salary Act of 1964 (31 U.S.C. 51a);

(3) section 203(i) of the Federal Legislative Salary Act of 1964 (31 U.S.C. 52b);

(4) section 204(d) of the Legislative Reorganization Act of 1970 (31 U.S.C. 1154(d)); or

(5) section 401 of the General Accounting Office Act of 1974 (31 U.S.C. 52c).

(b) Except as specifically provided in this Act, nothing contained in this Act shall be construed to repeal, amend, or limit the application of any provision of law applicable to employees of the General Accounting Office.

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 8. (a) Section 2108(3) of title 5, United States Code, is amended by inserting "or the General Accounting Office" after "the Senior Executive Service".

(b) Subsection 5102(a)(1) of such title is amended by striking out "or" at the end of clause (vii), by inserting "or" at the end of clause (viii), and by adding at the end thereof the following: 5 USC 5102.

"(ix) the General Accounting Office;".

(c)(1) Paragraph (1) of section 5108(c) of such title is repealed. 5 USC 5108.

(2) Paragraphs (2), (3), and (4) of such section are redesignated paragraphs (1), (2), and (3), respectively.

(d) Section 5342(a)(1) of such title is amended by striking out "or" at the end of subparagraph (H), by inserting "or" at the end of subparagraph (I), and by adding at the end thereof the following: 5 USC 5342.

"(J) the General Accounting Office;".

(e)(1) Subchapter III of chapter 73 of title 5, United States Code, is amended by adding at the end thereof the following new section:

"§ 7328. General Accounting Office employees 5 USC 7328.

"The preceding provisions of this subchapter shall not apply to employees of the General Accounting Office.".

(2) The chapter analysis for chapter 73 of title 5, United States Code, is amended by adding after the item relating to section 7327 the following new item:

"7328. General Accounting Office employees.".

(3) Subsections (a), (b), and (d) of section 311 of the Budget and Accounting Act, 1921 (31 U.S.C. 52) are amended to read as follows: Comptroller General's authority.

"(a) The Comptroller General shall appoint, fix the pay of, and remove employees of the General Accounting Office under the General Accounting Office Personnel Act of 1980. *Ante*, p. 27.

"(b) All officers and employees of the General Accounting Office shall perform such duties as may be assigned to them by the Comptroller General.".

(4) Subsections (e) and (f) of such section are redesignated subsections (c) and (d), respectively.

(f) Section 13 of the Federal Employees Pay Act of 1946 (31 U.S.C. 46a) is repealed. Repeal.

(g) Section 717(a) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-16) is amended by striking out "(other than the General Accounting Office)".

AUTHORIZATION

31 USC 52-7.

SEC. 9. There are hereby authorized to be appropriated beginning fiscal year 1981 and for each fiscal year thereafter such sums as may be necessary to carry out the provisions of this Act.

EFFECTIVE DATE

31 USC 52-1 note.

SEC. 10. (a) Except as provided in subsection (b), the provisions of this Act shall take effect on—

(1) October 1, 1980; or

(2) if later, one hundred and twenty days after the date of the enactment of this Act.

(b) The provisions of section 3 shall take effect on the date of the enactment of this Act, except the personnel system established by the Comptroller General under that section shall take effect on the effective date established by subsection (a).

Approved February 15, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-494 (Comm. on Post Office and Civil Service).
SENATE REPORT No. 96-540 accompanying S. 1879 (Comm. on Governmental Affairs).
CONGRESSIONAL RECORD:
Vol. 125 (1979): Oct. 15, considered and passed House.
Vol. 126 (1980): Jan. 25, S. 1879 considered and passed Senate.
Jan. 30, Senate vitiated passage of S. 1879; H.R. 5176, amended, passed in lieu.
Feb. 4, House concurred in Senate amendment.

Public Law 96-192
96th Congress

An Act

To amend the Federal Aviation Act of 1958 in order to promote competition in international air transportation, provide greater opportunities for United States air carriers, establish goals for developing United States international aviation negotiating policy, and for other purposes.

Feb. 15, 1980
[S. 1300]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "International Air Transportation Competition Act of 1979".

International Air Transportation Competition Act of 1979.
49 USC 1301 note.

SEC. 2. Section 102(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1302(a)) is amended to read as follows:

"DECLARATION OF POLICY: THE BOARD

"FACTORS FOR INTERSTATE, OVERSEAS, AND FOREIGN AIR TRANSPORTATION

"SEC. 102. (a) In the exercise and performance of its powers and duties under this Act, the Board shall consider the following, among other things, as being in the public interest, and in accordance with the public convenience and necessity:

"(1) The assignment and maintenance of safety as the highest priority in air commerce, and prior to the authorization of new air transportation services, full evaluation of the recommendations of the Secretary of Transportation on the safety implications of such new services and full evaluation of any report or recommendation submitted under section 107 of this Act. 49 USC 1307.

"(2) The prevention of any deterioration in established safety procedures, recognizing the clear intent, encouragement, and dedication of the Congress to the furtherance of the highest degree of safety in air transportation and air commerce, and the maintenance of the safety vigilance that has evolved within air transportation and air commerce and has come to be expected by the traveling and shipping public.

"(3) The availability of a variety of adequate, economic, efficient, and low-price services by air carriers and foreign air carriers without unjust discriminations, undue preferences or advantages, or unfair or deceptive practices, the need to improve relations among, and coordinate transportation by, air carriers, and the need to encourage fair wages and equitable working conditions for air carriers.

"(4) The placement of maximum reliance on competitive market forces and on actual and potential competition (A) to provide the needed air transportation system, and (B) to encourage efficient and well-managed carriers to earn adequate profits and to attract capital, taking account, nevertheless, of material differences, if any, which may exist between interstate and overseas air transportation, on the one hand, and foreign air transportation, on the other.

"(5) The development and maintenance of a sound regulatory environment which is responsive to the needs of the public and in which decisions are reached promptly in order to facilitate adaption of the air transportation system to the present and future needs of the domestic and foreign commerce of the United States, the Postal Service, and the national defense.

"(6) The encouragement of air service at major urban areas in the United States through secondary or satellite airports, where consistent with regional airport plans of regional and local authorities, and when such encouragement is endorsed by appropriate State entities encouraging such service by air carriers whose sole responsibility in any specific market is to provide service exclusively at the secondary or satellite airport, and fostering an environment which reasonably enables such carriers to establish themselves and to develop their secondary or satellite airport services.

"(7) The prevention of unfair, deceptive, predatory, or anticompetitive practices in air transportation, and the avoidance of—

"(A) unreasonable industry concentration, excessive market domination, and monopoly power; and

"(B) other conditions;

that would tend to allow one or more air carriers or foreign air carriers unreasonably to increase prices, reduce services, or exclude competition in air transportation.

"(8) The maintenance of a comprehensive and convenient system of continuous scheduled interstate and overseas airline service for small communities and for isolated areas in the United States, with direct Federal assistance where appropriate.

"(9) The encouragement, development, and maintenance of an air transportation system relying on actual and potential competition to provide efficiency, innovation, and low prices, and to determine the variety, quality, and price of air transportation services.

"(10) The encouragement of entry into air transportation markets by new air carriers, the encouragement of entry into additional air transportation markets by existing air carriers, and the continued strengthening of small air carriers so as to assure a more effective, competitive airline industry.

"(11) The promotion, encouragement, and development of civil aeronautics and a viable, privately owned United States air transport industry.

"(12) The strengthening of the competitive position of United States air carriers to at least assure equality with foreign air carriers, including the attainment of opportunities for United States air carriers to maintain and increase their profitability, in foreign air transportation.".

Repeal.

SEC. 3. (a) Section 102(c) of the Federal Aviation Act of 1958 (49 U.S.C. 1302(c)) is repealed.

(b) That portion of the table of contents contained in the first section of the Federal Aviation Act of 1958 which appears under the side heading

"Sec. 102. Declaration of policy: The Board."

is amended by striking out

"(a) Factors for interstate and overseas air transportation.
"(b) Factors for all-cargo service.
"(c) Factors for foreign air transportation."

and inserting in lieu thereof

"(a) Factors for interstate, overseas, and foreign air transportation.
"(b) Factors for all-cargo service.".

SEC. 4. Sections 401(d)(1) through 401(d)(3) of the Federal Aviation Act of 1958 (49 U.S.C. 1371 (d)(1) through (d)(3)) are amended to read as follows:

"ISSUANCE OF CERTIFICATE

"(d)(1) The Board shall issue a certificate authorizing the whole or any part of the transportation covered by the application, if it finds that the applicant is fit, willing, and able to perform such transportation properly and to conform to the provisions of this Act and the rules, regulations, and requirements of the Board hereunder, and that such transportation is consistent with the public convenience and necessity; otherwise such application shall be denied.

Temporary air transportation.

"(2) In the case of an application for a certificate to engage in temporary air transportation, the Board may issue a certificate authorizing the whole or any part thereof for such limited periods as is consistent with the public convenience and necessity, if it finds that the applicant is fit, willing, and able properly to perform such transportation and to conform to the provisions of this Act and the rules, regulations, and requirements of the Board hereunder.

Charter air transportation.

"(3) In the case of an application for a certificate to engage in charter air transportation, the Board may issue a certificate to any applicant, not holding a certificate under paragraph (1) or (2) of this subsection on January 1, 1977, authorizing interstate air transportation of persons, which authorizes the whole or any part thereof for such periods, as is consistent with the public convenience and necessity, if it finds that the applicant is fit, willing, and able properly to perform the transportation covered by the application and to conform to the provisions of this Act and the rules, regulations, and requirements of the Board hereunder.".

SEC. 5. The first sentence of section 401(e)(2) of the Federal Aviation Act of 1958 (49 U.S.C. 1371(e)(2)) is amended by striking out the words ", insofar as the operation is to take place without the United States,".

SEC. 6. Section 401(g) of the Federal Aviation Act of 1958 (49 U.S.C. 1371(g)) is amended to read as follows:

"AUTHORITY TO MODIFY, SUSPEND, OR REVOKE

"(g)(1) The Board upon petition or complaint or upon its own initiative, after notice and hearings, or pursuant to the simplified procedures under subsection (p) of this section, may alter, amend, modify, or suspend any such certificate, in whole or in part, if the public convenience and necessity so require, or may revoke any such certificate, in whole or in part, for intentional failure to comply with any provision of this title or any order, rule, or regulation issued hereunder or any term, condition, or limitation of such certificate. No such certificate shall be revoked unless the holder thereof fails to comply, within a reasonable time to be fixed by the Board, with an order of the Board commanding obedience to the provision, or to the order (other than an order issued in accordance with this sentence), rule, regulation, term, condition, or limitation found by the Board to have been violated. No certificate to engage in foreign air transportation may be altered, amended, modified, suspended, or revoked pursuant to the simplified procedures of subsection (p) of this section if the holder of such certificate requests an oral evidentiary hearing

Foreign air transportation, oral hearing.

or the Board finds that, under all the facts and circumstances, an oral evidentiary hearing is required in the public interest.

Protest or memorandum.

"(2) Any interested person may file with the Board a protest or memorandum in support of or in opposition to the alteration, amendment, modification, suspension, or revocation of a certificate pursuant to paragraph (1) of this subsection.

Foreign air transportation.

"(3) Notwithstanding the provisions of paragraph (1) of this subsection, the Board may suspend or revoke authority of an air carrier to serve any point in foreign air transportation authorized in a certificate issued under this section, upon notice and with a reasonable opportunity for the affected carrier to present its views, but without hearing, if the carrier has notified the Board in accordance with subsection (j) of this section or any regulation of the Board that it proposes to suspend all service provided by that carrier to such point, or, except at a point which is provided seasonal service comparable to that provided during the previous year, if the carrier has failed to provide any regularly scheduled service to the point for 90 days preceding the date of the Board's notice to the carrier of its proposed action.".

SEC. 7. Section 402(b) of the Federal Aviation Act of 1958 (49 U.S.C. 1372(b)) is amended to read as follows:

"ISSUANCE OF PERMIT

"(b) The Board is empowered to issue such a permit if it finds (1) that the applicant is fit, willing, and able properly to perform such foreign air transportation and to conform to the provisions of this Act and the rules, regulations, and requirements of the Board hereunder and (2) either that the applicant is qualified, and has been designated by its government, to perform such foreign air transportation under the terms of an agreement with the United States, or that such transportation will be in the public interest.".

SEC. 8. The third sentence of section 402(d) of the Federal Aviation Act of 1958 (49 U.S.C. 1372(d)) is amended by striking out "Such application shall be set for public hearing and the" and inserting in lieu thereof "The".

SEC. 9. Section 402(f) of the Federal Aviation Act of 1958 (49 U.S.C. 1372(f)) is amended by inserting "(1)" immediately after "(f)" and by adding at the end thereof the following new paragraph:

Foreign air carriers.

"(2) Whenever the Board finds that the government, aeronautical authorities, or foreign air carriers of any foreign country have, over the objections of the Government of the United States, impaired, limited, or denied the operating rights of United States air carriers, or engaged in unfair, discriminatory, or restrictive practices with a substantial adverse competitive impact upon United States carriers, with respect to air transportation services to, from, through, or over the territory of such country, the Board may, without hearing but subject to the approval of the President of the United States, summarily suspend the permits of the foreign air carriers of such country, or alter, modify, amend, condition, or limit operations under such permits, if it finds such action to be in the public interest. The Board may also, without hearing but subject to Presidential approval, to the extent necessary to make the operation of this paragraph effective, restrict operations between such foreign country and the United States by any foreign air carrier of a third country.".

SEC. 10. Section 407(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1377(a)) is amended by inserting the phrase "or foreign air carrier"

immediately after the words "air carrier" each time those words appear therein.

SEC. 11. Section 412 of the Federal Aviation Act of 1958 (49 U.S.C. 1382) is amended by—

(1) striking subsections (a) and (b) thereof;

(2) redesignating subsections (c), (d), and (e) as subsections (a), (b), and (c), respectively;

(3) striking the words ", affecting interstate or overseas air transportation and" in subsection (a)(1), as so redesignated by this section;

(4) inserting the words ", including international comity or foreign policy considerations," immediately after "public benefits" in paragraph (a)(2)(A)(i), as so redesignated by this section;

(5) inserting the words "affecting interstate or overseas air transportation," immediately after the word "agreement," in paragraph (a)(2)(A)(iii), as so redesignated by this section;

(6) inserting the words "or foreign air carrier" immediately after the words "air carrier" the first two times those words appear in subsection (a)(1), as so redesignated by this section; and

(7) striking out "or (c)", inserting ", the Secretary of State," after "shall provide to the Attorney General", and striking out "such Secretary" and inserting in lieu thereof "either Secretary", in subsection (b), as redesignated by this section.

SEC. 12. (a) The center heading for section 412(a) of the Federal Aviation Act of 1958, as redesignated by section 11 of this Act, is amended by striking out

"AFFECTING INTERSTATE OR OVERSEAS AIR TRANSPORTATION".

(b) That portion of the table of contents contained in the first section of the Federal Aviation Act of 1958 which appears under the side heading

"Sec. 412. Pooling and other agreements."

is amended to read as follows:

"(a) Filing and approval of agreements.
"(b) Proceedings upon filing.
"(c) Mutual aid agreement.".

SEC. 13. Section 416(b) of the Federal Aviation Act of 1958 (49 U.S.C. 1386) is amended by adding at the end thereof the following new paragraph:

"(7) The Board may by order, to the extent it finds that such action is required in the public interest, exempt any foreign air carrier for a period not to exceed 30 days from the requirements or limitations of this Act, to the extent necessary to authorize the foreign air carrier to carry passengers, cargo, or mail in interstate or overseas air transportation in certain markets if the Board, after consultation with the Secretary of Transportation, finds that— Foreign air carrier exemption.

"(A) because of an emergency created by unusual circumstances not arising in the normal course of business, traffic in such markets cannot be accommodated by air carriers holding certificates under section 401 of this Act; *Ante*, p. 37.

"(B) all possible efforts have been made to accommodate such traffic by utilizing the resources of such air carriers (including, for example, the use of foreign aircraft, or sections of foreign aircraft, that are under lease or charter to such air carriers, and the use of such air carriers' reservation systems to the extent practicable);

"(C) such authorization is necessary to avoid undue hardship for the traffic in such market that cannot be accommodated by air carriers holding certificates under section 401 of this Act; and

Ante, p. 37.

"(D) in any case where the inability to accommodate traffic in a market results from a labor dispute, the granting of such an exemption will not result in an undue advantage to any party to such dispute.

Whenever the Board grants such authority to a foreign air carrier under this paragraph, the Board shall—

"(i) assure that any air transportation provided by the foreign carrier under such authority is made available on fair and reasonable terms;

"(ii) continuously monitor the passenger load factor of air carriers in such market that hold certificates under section 401 of this Act; and

"(iii) review such authority no less frequently than once every 30 days to assure that the unusual circumstances that created the need for such authority still exist.

The Board may renew any exemption under this paragraph (including any renewal thereof) for a period not to exceed 30 days. In no event shall any authorization to a foreign air carrier under this paragraph remain in effect for more than 5 days after the unusual circumstances that created the need for such authorization have ceased.".

SEC. 14. Section 1002(j)(1) of the Federal Aviation Act of 1958 (49 U.S.C. 1482(j)(1)) is amended to read as follows:

"SUSPENSION AND REJECTION OF RATES IN FOREIGN AIR TRANSPORTATION

"(j)(1) Whenever any air carrier or foreign air carrier shall file with the Board a tariff stating a new individual or joint (between air carriers, between foreign air carriers, or between an air carrier or carriers and a foreign air carrier or carriers) rate, fare, or charge for foreign air transportation or any classification, rule, regulation, or practice affecting such rate, fare, or charge, or the value of the service thereunder, the Board is empowered, upon complaint or upon its own initiative, at once, and, if it so orders, without answer or other formal pleading by the air carrier or foreign air carrier, but upon reasonable notice, to enter upon a hearing concerning the lawfulness of such rate, fare, or charge, or such classification, rule, regulation, or practice; and pending such hearing and the decision thereon, or in the case of a tariff filed by a foreign air carrier if such action is in the public interest, the Board, by filing with such tariff, and delivering to the air carrier or foreign air carrier affected thereby, a statement in writing of its reasons for such suspension, may suspend the operation of such tariff and defer the use of such rate, fare, or charge, or such classification, rule, regulation, or practice, for a period or periods not exceeding 365 days in the aggregate beyond the time when such tariff would otherwise go into effect. If, after hearing, the Board shall be of the opinion that such rate, fare, or charge, or such classification, rule, regulation, or practice, is or will be unjust or unreasonable, or unjustly discriminatory, or unduly preferential, or unduly prejudicial, or in the case of a tariff filed by a foreign air carrier if the Board concludes with or without hearing that such action is in the public interest, the Board may take action to reject or cancel such tariff and prevent the use of such rate, fare, or charge, or such classification, rule, regulation, or practice. The Board may at any time rescind the

suspension of such tariff and permit the use of such rate, fare, or charge, or such classification, rule, regulation, or practice. If the proceeding has not been concluded and an order made within the period of suspension or suspensions, or if the Board shall otherwise so direct, the proposed rate, fare, charge, classification, rule, regulation, or practice shall go into effect subject, however, to being canceled when the proceeding is concluded. During the period of any suspension or suspensions, or following rejection or cancellation of a tariff, including tariffs which have gone into effect provisionally, the affected air carrier or foreign air carrier shall maintain in effect and use the rate, fare, or charge, or the classification, rule, regulation, or practice affecting such rate, fare, or charge, or the value of service thereunder which was in effect immediately prior to the filing of the new tariff or such other rate, fare or charge as may be provided for under an applicable intergovernmental agreement or understanding. If the suspension, rejection, or cancellation is of an initial tariff, the affected air carrier or foreign air carrier may file for purposes of operations pending effectiveness of a new tariff, a tariff embodying any rate, fare, or charge, or any classification, rule, regulation, or practice affecting such rate, fare, or charge, or the value of service thereunder, that may be currently in effect (and not subject to a suspension order) for any air carrier engaged in the same foreign air transportation.".

SEC. 15. Section 1002(j)(2) of the Federal Aviation Act of 1958 (49 U.S.C. 1482(j)(2)) is amended to read as follows:

Suspension of tariff.

"(2) With respect to any existing tariff of an air carrier or foreign air carrier stating rates, fares, or charges for foreign air transportation, or any classification, rule, regulation, or practice affecting such rate, fare, or charge, or the value of the service thereunder, the Board is empowered, upon complaint or upon its own initiative, at once and, if it so orders, without answer or other formal pleading by the air carrier or foreign air carrier, but upon reasonable notice, to enter into a hearing concerning the lawfulness of such rate, fare, or charge, or such classification, rule, regulation, or practice; and pending such hearing and the decision thereon, or in the case of a tariff filed by a foreign air carrier if such action is in the public interest, the Board upon reasonable notice, and by filing with such tariff, and delivering to the air carrier or foreign air carrier affected thereby, a statement in writing of its reasons for such suspension, and the effective date thereof, may suspend the operation of such tariff and defer the use of such rate, fare, or charge, or such classification, rule, regulation, or practice, following the effective date of such suspension, for a period or periods not exceeding 365 days in the aggregate from the effective date of such suspension. If, after hearing, the Board shall be of the opinion that such rate, fare, or charge, or such classification, rule, regulation, or practice, is or will be unjust or unreasonable, or unjustly discriminatory, or unduly preferential, or unduly prejudicial, or in the case of a tariff filed by a foreign air carrier if the Board concludes with or without hearing that such action is in the public interest, the Board may take action to cancel such tariff and prevent the use of such rate, fare, or charge, or such classification, rule, regulation, or practice. If the proceeding has not been concluded within the period of suspension or suspensions, the tariff shall again go into effect subject, however, to being canceled when the proceeding is concluded. For the purposes of operation during the period of such suspension, or the period following cancellation of an existing tariff pending effectiveness of a new tariff, the air carrier or foreign air carrier may file a tariff embodying any rate, fare, or charge, or any

classification, rule, regulation, or practice affecting such rate, fare, or charge, or the value of service thereunder, that may be currently in effect (and not subject to a suspension order) for any air carrier engaged in the same foreign air transportation.".

SEC. 16. Section 1002(j)(5) of the Federal Aviation Act of 1958 (49 U.S.C. 1482(j)(5)) is amended by (1) striking the word "and" at the end of subparagraph (E) thereof, (2) striking the period at the end of subparagraph (F) and inserting in lieu thereof "; and", and (3) adding at the end thereof the following new subparagraph:

"(G) reasonably estimated or foreseeable future costs and revenues for such air carrier or foreign air carrier for a reasonably limited future period during which the rate at issue would be in effect.".

SEC. 17. Section 1102 of the Federal Aviation Act of 1958 (49 U.S.C. 1502) is amended by inserting "(a)" immediately after "SEC. 1102." and by adding at the end thereof the following new subsections:

"GOALS FOR INTERNATIONAL AVIATION POLICY

"(b) In formulating United States international air transportation policy, the Congress intends that the Secretary of State, the Secretary of Transportation, and the Civil Aeronautics Board shall develop a negotiating policy which emphasizes the greatest degree of competition that is compatible with a well-functioning international air transportation system. This includes, among other things:

"(1) the strengthening of the competitive position of United States air carriers to at least assure equality with foreign air carriers, including the attainment of opportunities for United States air carriers to maintain and increase their profitability, in foreign air transportation;

"(2) freedom of air carriers and foreign air carriers to offer fares and rates which correspond with consumer demand;

"(3) the fewest possible restrictions on charter air transportation;

"(4) the maximum degree of multiple and permissive international authority for United States air carriers so that they will be able to respond quickly to shifts in market demand;

"(5) the elimination of operational and marketing restrictions to the greatest extent possible;

"(6) the integration of domestic and international air transportation;

"(7) an increase in the number of nonstop United States gateway cities;

"(8) opportunities for carriers of foreign countries to increase their access to United States points if exchanged for benefits of similar magnitude for United States carriers or the traveling public with permanent linkage between rights granted and rights given away;

"(9) the elimination of discrimination and unfair competitive practices faced by United States airlines in foreign air transportation, including excessive landing and user fees, unreasonable ground handling requirements, undue restrictions on operations, prohibitions against change of gauge, and similar restrictive practices; and

"(10) the promotion, encouragement, and development of civil aeronautics and a viable, privately owned United States air transport industry.

"CONSULTATION WITH AFFECTED GROUPS

"(c) To assist in developing and implementing such an international aviation negotiating policy, the Secretaries of State and Transportation and the Civil Aeronautics Board shall consult, to the maximum extent practicable, with the Secretary of Commerce, the Secretary of Defense, airport operators, scheduled air carriers, charter air carriers, airline labor, consumer interest groups, travel agents and tour organizers, and other groups, institutions, and government agencies affected by international aviation policy concerning both broad policy goals and individual negotiations.

"OBSERVER STATUS FOR CONGRESSIONAL REPRESENTATIVES

"(d) The President shall grant to at least one representative of each House of Congress the privilege to attend international aviation negotiations as an observer if such privilege is requested in advance in writing.".

SEC. 18. (a) The center heading for section 1102 of the Federal Aviation Act of 1958 is amended to read as follows: 49 USC 1502.

"INTERNATIONAL AGREEMENTS

"ACTIONS OF THE BOARD AND SECRETARY OF TRANSPORTATION".

(b) That portion of the table of contents contained in the first section of the Federal Aviation Act of 1958 which appears under the center heading

"TITLE XI—MISCELLANEOUS"

is amended by striking out

"Sec. 1102. International agreements."

and inserting in lieu thereof

"Sec. 1102. International agreements.
"(a) Actions of the Board and Secretary of Transportation.
"(b) Goals for international aviation policy.
"(c) Consultation with affected groups.
"(d) Observer status for Congressional representatives.".

SEC. 19. Section 1104 of the Federal Aviation Act of 1958 (49 U.S.C. 1504) is amended by striking the words "international negotiations and" and inserting in lieu thereof "international negotiations or".

SEC. 20. The third sentence of section 1108(b) of the Federal Aviation Act of 1958 (49 U.S.C. 1508(b)) is amended by inserting immediately before the period at the end thereof the following: ", unless specifically authorized under section 416(b)(7) of this Act or under regulations prescribed by the Secretary authorizing United States air carriers to engage in otherwise authorized common carriage and carriage of mail with foreign registered aircraft under lease or charter to them without crew". *Ante*, p. 39.

SEC. 21. Section 1117 of the Federal Aviation Act of 1958 (49 U.S.C. 1517) is amended to read as follows:

"TRANSPORTATION OF GOVERNMENT-FINANCED PASSENGERS AND PROPERTY

"TRANSPORTATION BETWEEN THE UNITED STATES AND A PLACE OUTSIDE THEREOF

"SEC. 1117. (a) Except as provided in subsection (c) of this section, whenever any executive department or other agency or instrumentality of the United States shall procure, contract for, or otherwise obtain for its own account or in furtherance of the purposes or pursuant to the terms of any contract, agreement, or other special arrangement made or entered into under which payment is made by the United States or payment is made from funds appropriated, owned, controlled, granted, or conditionally granted or utilized by or otherwise established for the account of the United States, or shall furnish to or for the account of any foreign nation, or any international agency, or other organization, of whatever nationality, without provisions for reimbursement, any transportation of persons (and their personal effects) or property by air between a place in the United States and a place outside thereof, the appropriate agency or agencies shall take such steps as may be necessary to assure that such transportation is provided by air carriers holding certificates under section 401 of this Act to the extent authorized by such certificates or by regulations or exemption of the Civil Aeronautics Board and to the extent service by such carriers is available.

49 USC 1371.

"TRANSPORTATION BETWEEN TWO PLACES OUTSIDE THE UNITED STATES

"(b) Except as provided in subsection (c) of this section, whenever persons (and their personal effects) or property described in subsection (a) of this section are transported by air between two places both of which are outside the United States, the appropriate agency or agencies shall take such steps as may be necessary to assure that such transportation is provided by air carriers holding certificates under section 401 of this Act to the extent authorized by such certificates or by regulations or exemption of the Civil Aeronautics Board and to the extent service by such carriers is reasonably available.

"TRANSPORTATION PURSUANT TO BILATERAL AGREEMENT

"(c) Nothing in this section shall preclude the transportation of persons (and their personal effects) or property by foreign air carriers if such transportation is provided for under the terms of a bilateral or multilateral air transport agreement between the United States and a foreign government or governments and if such agreement (1) is consistent with the goals for international aviation policy set forth in section 1102(b) of this Act and (2) provides for the exchange of rights or benefits of similar magnitude.

Ante, p. 42.

"DISALLOWANCE OF IMPROPER EXPENDITURE BY COMPTROLLER GENERAL

"(d) The Comptroller General of the United States shall disallow any expenditure from appropriated funds for payment for personnel or cargo transportation in violation of this section in the absence of satisfactory proof of the necessity therefor. Nothing in this section shall prevent the application to such traffic of the antidiscrimination provisions of this Act.".

SEC. 22. That portion of the table of contents contained in the first section of the Federal Aviation Act of 1958 which appears under the center heading

"TITLE XI—MISCELLANEOUS"

is amended by striking out

"Sec. 1117. Transportation of Government-financed passengers and property."

and inserting in lieu thereof

"Sec. 1117. Transportation of Government-financed passengers and property.
"(a) Transportation between the United States and a place outside thereof.
"(b) Transportation between two places outside the United States.
"(c) Transportation pursuant to bilateral agreement.
"(d) Disallowance of improper expenditure by Comptroller General.".

SEC. 23. Section 2 of the International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C. 1159b) is amended by redesignating subsections (b) and (c) as subsections (c) and (d), respectively, and adding a new subsection (b) as follows:

Discriminatory, predatory, or anticompetitive practices.

"(b)(1) Whenever the Civil Aeronautics Board, upon complaint or upon its own initiative, determines that a foreign government or instrumentality, including a foreign air carrier (A) engages in unjustifiable or unreasonable discriminatory, predatory, or anticompetitive practices against a United States air carrier or (B) imposes unjustifiable or unreasonable restrictions on access of a United States air carrier to foreign markets, the Board may take such action as it deems to be in the public interest to eliminate such practices or restrictions. Such actions may include, but are not limited to, the denial, transfer, alteration, modification, amendment, cancellation, suspension, limitation, or revocation of any foreign air carrier permit or tariff pursuant to the powers of the Board under the Federal Aviation Act of 1958.

49 USC 1301 note. Complaint, filing.

"(2) Any United States air carrier or any agency of the Government of the United States may file a complaint under this section with the Civil Aeronautics Board. The Board shall approve, deny, dismiss, set such complaint for hearing or investigation, or institute other proceedings proposing remedial action within 60 days after receipt of the complaint. The Board may extend the period for taking such action for an additional period or periods of up to 30 days each if the Board concludes that it is likely that the complaint can be satisfactorily resolved through negotiations with the foreign government or instrumentality during such additional period, but in no event may the aggregate period for taking action under this subsection exceed 180 days from receipt of the complaint. In considering any complaint, or in any proceedings under its own initiative, under this subsection the Board shall (A) solicit the views of the Department of State and the Department of Transportation and (B) provide any affected air carrier or foreign air carrier with reasonable notice and such opportunity to file written evidence and argument as is consistent with acting on the complaint within the time limits set forth in this subsection.

Solicitation of views.

Transmittal to President.

"(3) Any action proposed by the Board pursuant to this section shall be transmitted to the President pursuant to section 801 of the Federal Aviation Act of 1958 (49 U.S.C. 1461).".

SEC. 24. (a) Section 1002(j) of the Federal Aviation Act of 1958 (49 U.S.C. 1482(j)) is amended by adding at the end thereof the following new paragraphs:

Foreign air fares.

"(6) The Board shall not have authority to find any fare for foreign air transportation of persons to be unjust or unreasonable on the basis that such fare is too low or too high if—

"(A) with respect to any proposed increase filed with the Board on or after the date of enactment of this paragraph, and before the 180th day after such date of enactment, such proposed fare would not be more than the standard foreign fare level for the same or essentially similar class of service. No such fare shall be suspended, unless the Board determines that it may be unduly preferential, unduly prejudicial, or unjustly discriminatory or that suspension is in the public interest because of unreasonable regulatory actions by a foreign government with respect to fare proposals of an air carrier; or

"(B) with respect to any proposed increase filed with the Board after the 180th day after the date of enactment of this paragraph such proposed fare would not be more than 5 percent higher than the standard foreign fare level for the same or essentially similar class of service. No such fare shall be suspended, unless the Board determines that it may be unduly preferential, unduly prejudicial, or unjustly discriminatory or that suspension is in the public interest because of unreasonable regulatory actions by a foreign government with respect to fare proposals of an air carrier; or

"(C) with respect to any proposed decrease filed after the date of enactment of this paragraph, the fare would not be more than 50 percent lower than the standard foreign fare level for the same or essentially similar class of service, except that this provision shall not apply to any proposed decrease in any fare if the Board determines that such proposed fare may be predatory or discriminatory or that suspension of any such fare is required because of unreasonable regulatory actions by a foreign government with respect to fare proposals by an air carrier.

"Standard foreign fare level."

"(7) For purposes of this subsection, 'standard foreign fare level' means that fare level (as adjusted only in accordance with paragraph (9) of this subsection) filed for and permitted by the Civil Aeronautics Board to go into effect on or after October 1, 1979 and before the 180th day after the date of enactment of this paragraph (with seasonal fares adjusted by the percentage difference that prevailed between seasons in 1978), or the fare level established under paragraph (8), for each pair of points, for each class of fare existing on that date, and in effect on the effective date of the establishment of each additional class of fare established after October 1, 1979.

Unjust or unreasonable fares, determination.

"(8)(A) The Board is authorized, on the basis of oral evidentiary hearings before an administrative law judge, to determine that a fare between two points on October 1, 1979 is unjust or unreasonable. Such oral evidentiary hearing shall be completed within 180 days of enactment of this section, and the Board may establish such deadlines including the deadline for the judge's decision as the Board may deem necessary to meet such requirement. If the Board determines that such a fare is unjust or unreasonable, the Board shall, on the basis of such hearing record, establish the standard foreign fare level between such points.

"(B) Standard foreign fare levels shall not be established under this paragraph for points between which the passengers carried by United States carriers in foreign air transportation are, in the aggregate, more than 25 percent of the total passengers carried by United States air carriers in foreign air transportation during the most recent 12-month period for which data is available.

"(C) The establishment of a standard foreign fare level under this paragraph does not permit a reduction in fares.

"(D) No standard foreign fare level established under this paragraph shall take effect on or before the 180th day after the date of enactment of this paragraph.

"(E) The authority given the Board by subparagraph (A) of this paragraph shall expire on the 180th day after the date of enactment of this paragraph.

"(9) The Board shall, within 30 days after the date of enactment of this paragraph, and not less often than every 60 days thereafter with respect to fuel costs and not less often than every 180 days with respect to all other costs, adjust each standard foreign fare level for the particular foreign air transportation to which such standard foreign fare level applies by increasing or decreasing such standard foreign fare level, as the case may be, by the percentage change from the last previous period in the actual operating cost per available seatmile. In determining the standard foreign fare level, the Board shall make no adjustment to costs acutally incurred. In establishing standard foreign fare levels and making the adjustments called for in this paragraph, the Board may use all relevant or appropriate information reasonably available to it. Fare adjustment.

"(10) The Board may by rule increase the percentage specified in paragraph (6)(C) of this subsection.".

(b) Section 403(c)(1) of the Federal Aviation Act of 1958 (49 U.S.C. 1373(c)(1)) is amended by (1) inserting the words "or foreign air carrier" after the words "air carrier" each time those words appear therein and (2) inserting the words "or foreign air carrier's" after the words "air carrier's".

(c) Section 403(c)(2) of the Federal Aviation Act of 1958 (49 U.S.C. 1373(c)(2)) is amended to read as follows:

"(2) If the effect of any proposed tariff change would be to institute a fare that is outside of the applicable range of fares specified in subparagraphs (A) and (B) of section 1002(d)(4) or subparagraphs (A), (B), and (C) of section 1002(j)(6) of this Act, or specified by the Board under section 1002(d)(7) or section 1002(j)(9) of this Act, or would be to institute a fare to which such range of fares does not apply, then such proposed change shall not be implemented except after 60 days' notice filed in accordance with regulations prescribed by the Board.". 49 USC 1482.

SEC. 25. Section 1002(c) of the Federal Aviation Act of 1958 (49 U.S.C. 1482(c)) is amended by inserting the words ", subject to section 1102(a) of this Act," immediately before the words "issue an appropriate order". 49 USC 1502.

SEC. 26. (a) Paragraph (1) of section 401(n) of the Federal Aviation Act of 1958 (49 U.S.C. 1371(n)(1)) is amended to read as follows:

"(1) Notwithstanding any other provision of this title, no air carrier providing air transportation under a certificate issued under this section shall commingle, on the same flight, passengers being transported in interstate, overseas, or foreign charter air transportation with passengers being transported in scheduled interstate, overseas, or foreign air transportation, except that this subsection shall not apply to the carriage of passengers in air transportation under group fare tariffs.". Commingling of passengers.

(b) Paragraph (1) of section 401(n) of the Federal Aviation Act of 1958 (49 U.S.C. 1371(n)(1)) and the authority of the Civil Aeronautics Board with respect to such paragraph shall cease to be in effect on December 31, 1981.

SEC. 27. Section 414 of the Federal Aviation Act of 1958 (49 U.S.C. 1384) is amended by adding at the end thereof the following new

sentence: "Notwithstanding the preceding sentence, on the basis of the findings required by subsection (a)(2)(A)(i) of section 412, the Board shall, as part of any order under such section which approves any contract, agreement, or request or any modification or cancellation thereof, exempt any person affected by such order from the operations of the 'anti-trust laws' set forth in subsection (a) of the first section of the Clayton Act (15 U.S.C. 12) to the extent necessary to enable such person to proceed with the transaction specifically approved by the Board in such order and with those transactions necessarily contemplated by such order.".

"Anti-trust laws."

SEC. 28. Section 45 of the Airline Deregulation Act of 1978 (49 U.S.C. 1341 note) is amended by inserting "(a)" after "SEC. 45." and by adding at the end thereof the following new subsections:

Fee collection.

"(b) Nothing in this section shall prohibit the Secretary of Transportation or the Administrator of the Federal Aviation Administration from collecting a fee, charge, or price for any test, authorization, certificate, permit, or rating, administered or issued outside the United States, relating to any airman or repair station.

"United States."

"(c) For purposes of this section, the term 'United States' shall have the meaning given such term in section 101 of the Federal Aviation Act of 1958 (49 U.S.C. 1301).".

Love Field, Tex.

SEC. 29. (a) Except as provided in subsection (c), notwithstanding any other provision of law, neither the Secretary of Transportation, the Civil Aeronautics Board, nor any other officer or employee of the United States shall issue, reissue, amend, revise, or otherwise modify (either by action or inaction) any certificate or other authority to permit or otherwise authorize any person to provide the transportation of individuals, by air, as a common carrier for compensation or hire between Love Field, Texas, and one or more points outside the State of Texas, except (1) charter air transportation not to exceed ten flights per month, and (2) air transportation provided by commuter airlines operating aircraft with a passenger capacity of 56 passengers or less.

(b) Except as provided in subsections (a) and (c), notwithstanding any other provision of law, or any certificate or other authority heretofore or hereafter issued thereunder, no person shall provide or offer to provide the transportation of individuals, by air, for compensation or hire as a common carrier between Love Field, Texas, and one or more points outside the State of Texas, except that a person providing service to a point outside of Texas from Love Field on November 1, 1979, may continue to provide service to such point.

(c) Subsections (a) and (b) shall not apply with respect to, and it is found consistent with the public convenience and necessity to authorize, transportation of individuals, by air, on a flight between Love Field, Texas, and one or more points within the States of Louisiana, Arkansas, Oklahoma, New Mexico, and Texas by an air carrier, if (1) such air carrier does not offer or provide any through service or ticketing with another air carrier or foreign air carrier, and (2) such air carrier does not offer for sale transportation to or from, and the flight or aircraft does not serve, any point which is outside any such State. Nothing in this subsection shall be construed to give authority not otherwise provided by law to the Secretary of Transportation, the Civil Aeronautics Board, any other officer or employee of the United States, or any other person.

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(d) This section shall not take effect if enacted after the enactment of the Aviation Safety and Noise Abatement Act of 1979. Effective date. *Post*, p. 50.

Approved February 15, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 96-602 accompanying H.R. 5481 (Comm. on Public Works and Transportation) and No. 96-716 (Comm. of Conference).
SENATE REPORTS: No. 96-329 (Comm. on Commerce, Science, and Transportation) and No. 96-531 (Comm. of Conference).
CONGRESSIONAL RECORD:
Vol. 125 (1979): Sept. 29, considered and passed Senate.
Nov. 13, H.R. 5481 considered and passed Senate; passage vacated and S. 1300, amended, passed in lieu.
Vol. 126 (1980): Jan. 31, Senate agreed to conference report.
Feb. 4, House agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:
Vol. 16, No. 7 (1980): Feb. 15, Presidential statement.

Public Law 96-193
96th Congress

An Act

Feb. 18, 1980
[H.R. 2440]

To provide assistance to airport operators to prepare and carry out noise compatibility programs, to provide assistance to assure continued safety in aviation, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Aviation Safety and Noise Abatement Act of 1979".

Aviation Safety and Noise Abatement Act of 1979.
49 USC 2101 note.

TITLE I

Definitions.
49 USC 2101.

SEC. 101. For purposes of this title—

(1) the term "airport" means any air carrier airport whose projects for airport development are eligible for terminal development costs under section 20(b) of the Airport and Airway Development Act of 1970 (49 U.S.C. 1720(b));

(2) the term "airport operator" means any person holding a valid certificate issued pursuant to section 612 of the Federal Aviation Act of 1958 (49 U.S.C. 1432) to operate an airport; and

(3) the term "Secretary" means the Secretary of Transportation.

Regulations.
49 USC 2102.

SEC. 102. Not later than the last day of the twelfth month which begins after the date of enactment of this Act, the Secretary, after consultation with the Administrator of the Environmental Protection Agency and such other Federal, State, and interstate agencies as he deems appropriate, shall by regulation—

(1) establish a single system of measuring noise, for which there is a highly reliable relationship between projected noise exposure and surveyed reactions of people to noise, to be uniformly applied in measuring the noise at airports and the areas surrounding such airports;

(2) establish a single system for determining the exposure of individuals to noise which results from the operations of an airport and which includes, but is not limited to, noise intensity, duration, frequency, and time of occurrence; and

(3) identify land uses which are normally compatible with various exposures of individuals to noise.

Noise exposure map.
49 USC 2103.

SEC. 103. (a)(1) After the effective date of the regulations promulgated in accordance with section 102 of this title, any airport operator of an airport may submit to the Secretary a noise exposure map, prepared in consultation with any public agencies and planning agencies in the area surrounding such airport, which sets forth, in accordance with the regulations promulgated pursuant to section 102, the noncompatible uses in each area of the map, as of the date of submission of such map, a description of the projected aircraft operations at such airport during 1985, and the ways, if any, in which such operations will affect such map.

Revision.

(2) If, after the submission to the Secretary of a noise exposure map under paragraph (1), any change in the operation of an airport would create any substantial new noncompatible use in any area surround-

ing such airport, the operator of such airport shall submit a revised noise exposure map showing such new noncompatible use.

(b)(1) Section 11 of the Airport and Airway Development Act of 1970 (49 U.S.C. 1711) is amended by renumbering paragraphs (6) through (21), and all references thereto, as paragraphs (7) through (22), respectively, and by adding immediately after paragraph (5) the following new paragraph:

"(6) 'Airport noise compatibility planning' means the development for planning purposes of information necessary to prepare and submit (A) the noise exposure map and related information pursuant to section 103 of the Aviation Safety and Noise Abatement Act of 1979, including any cost associated with obtaining such information, or (B) a noise compatibility program for submission pursuant to section 104 of such Act.". "Airport noise compatibility planning."

Infra.

(2)(A) Section 13(a) of the Airport and Airway Development Act of 1970 (49 U.S.C. 1713) is amended by— Planning grants.

(i) inserting "(1)" immediately before the first sentence thereof; and

(ii) adding at the end thereof the following new paragraph:

"(2) In order to promote the development of an effective noise compatibility program, for fiscal years beginning after September 30, 1979, the Secretary may make grants of funds for airport noise compatibility planning to sponsors of those air carrier airports whose projects for airport development are eligible for terminal development costs under section 20(b) of this title.". 49 USC 1720.

(B) Section 13(b) of such Act is amended to read as follows: 49 USC 1713.

"(b) AMOUNT AND LIMITATION OF GRANTS.—(1) The award of grants under subsection (a)(1) of this section is subject to the following limitations:

"(A) The total funds obligated for grants under subsection (a)(1) of this section may not exceed $150,000,000, and the amount obligated in any one fiscal year may not exceed $15,000,000.

"(B) The United States share of any airport master planning grant under this section shall be that per centum for which a project for airport development at that airport would be eligible under section 17 of this Act. In the case of any airport system planning grant under this section, the United States share shall be 75 percent. 49 USC 1717.

"(C) No more than 10 percent of the funds made available under subsection (a)(1) of this section in any fiscal year may be allocated for projects within a single State, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, or Guam. Grants for projects encompassing an area located in two or more States shall be charged to each State in the proportion which the number of square miles the project encompasses in each State bears to the square miles encompassed by the entire project.

"(2)(A) The total funds obligated for grants under subsection (a)(2) of this section may not exceed $15,000,000.

"(B) The United States share of any airport noise compatibility planning grant under this section shall be that percent for which a project for airport development at that airport would be eligible under section 17 of this Act.".

SEC. 104. (a) Any airport operator who has submitted a noise exposure map and the related information pursuant to section 103(a)(1) may, after consultation with the officials of any public agencies and planning agencies in the area surrounding such airport, the Federal officials having local responsibility for such airport, and Noise compatibility program, submission by airport operators. 49 USC 2104.

any air carriers using such airport, submit a noise compatibility program to the Secretary. Such program shall set forth the measures which such operator has taken or proposes for the reduction of existing noncompatible uses and the prevention of the introduction of additional noncompatible uses within the area covered by the noise exposure map submitted by such operator. Such measures may include, but are not limited to—

(1) the implementation of any preferential runway system;

(2) the implementation of any restriction on the use of such airport by any type or class of aircraft based on the noise characteristics of such aircraft;

(3) the construction of barriers and acoustical shielding, including the soundproofing of public buildings;

(4) the use of flight procedures to control the operation of aircraft to reduce exposure of individuals to noise in the area surrounding the airport; and

(5) acquisition of land and interests therein, including, but not limited to, air rights, easements, and development rights, so as to assure the use of property for purposes which are compatible with airport operations.

Criteria for approval or disapproval of program.

(b) The Secretary shall approve or disapprove any program submitted to him pursuant to subsection (a) (other than as such program relates to flight procedures referred to in subsection (a)(4) of this section) within one hundred and eighty days after it is received by him. The Secretary shall approve such program (other than as such program relates to flight procedures referred to in subsection (a)(4) of this section) (A) if the measures to be undertaken in carrying out such program (i) do not create an undue burden on interstate or foreign commerce, and (ii) are reasonably consistent with obtaining the goal of reducing existing noncompatible uses and preventing the introduction of additional noncompatible uses, and (B) if the program provides for its revision made necessary by any revised noise exposure map submitted under section 103(a)(2) of this title. Failure of the Secretary to approve or disapprove such program (other than as such program relates to flight procedures referred to in subsection (a)(4) of this section) within such time period shall be deemed to be an approval of such program. With respect to any part of such program which relates to such flight procedures, the Secretary shall provide such part of such program to the Administrator of the Federal Aviation Administration who shall either approve or disapprove such part of such program.

Flight procedures, submission to FAA.

Incurring of obligations for grants.

(c)(1) The Secretary is authorized to incur obligations to make grants under this Act from funds made available under subsection (e) of this section for any project to carry out a noise compatibility program or parts thereof not disapproved under subsection (b) of this section. Grants under this Act may be made to operators of airports submitting noise compatibility programs and to units of local government in the area surrounding such airports if the Secretary determines such units have the capability to carry out projects for which grant applications are made in accordance with such noise compatibility programs. Such airport operator may in turn agree to make the grant available to public agencies in the area surrounding such airports if the Secretary determines such agencies have the capability to carry out projects for which grant applications are made in accordance with such noise compatibility programs. The Federal share of any project for which a grant is made under this subsection shall be 80 percent of the cost of the project. All of the provisions of the Airport and Airway Development Act of 1970 applicable to grants

Grants, availability.

Federal share.

49 USC 1701 note.

made under that Act (except section 17 of those provisions relating to apportionment) shall be applicable to any grant made under this Act, unless the Secretary determines that any provision of such Act of 1970 is inconsistent with, or unnecessary to carry out, the purposes of this Act. 49 USC 1717. 49 USC 1701 note.

(2) The Secretary, further, is authorized under this section to make grants to operators of airports and to units of local government referred to in paragraph (1) for any project to carry out a noise compatibility program developed prior to the enactment of this Act or the promulgation of its implementing regulations if the Secretary determines that such prior program is substantially consistent with the purposes of reducing existing uses and preventing the introduction of additional noncompatible uses and that the purposes of this Act would be furthered by prompt implementation of such program.

(d) The United States shall not be liable for damages resulting from aviation noise by reason of any action taken by the Secretary or the Administrator of the Federal Aviation Administration under this section. U.S. liability for damages.

(e) The Secretary shall obligate from funds available for expenditure under section 14(a)(3) of the Airport and Airway Development Act of 1970, not less than $25,000,000, for the fiscal year ending September 30, 1980, for making grants under subsection (c) of this section. Post, p. 54.

SEC. 105. The Secretary, acting through the Administrator of the Federal Aviation Administration, after consultation with the officials of any public agencies or planning agencies in the area surrounding such airport, shall prepare and publish a noise exposure map and a noise compatibility program for the airport established by the Act of June 29, 1940 (54 Stat. 686), and the airport the construction of which was authorized by the Act of September 7, 1950 (64 Stat. 770). Such map and program shall be prepared and published in accordance with the requirements of this Act no later than 1 year after the effective date of the regulations promulgated in accordance with section 102 of this Act. Noise exposure map and program, preparation and publication. 49 USC 2105.

SEC. 106. No part of any noise exposure map or related information described in section 103(a) submitted to, or prepared by, the Secretary and no part of the list of land uses identified by the Secretary as land uses which are normally compatible with various exposures of individuals to noise shall be admitted as evidence, or used for any other purpose, in any suit or action seeking damages or other relief for the noise that results from the operation of an airport. Maps and land use lists, prohibition. 49 USC 2106.

SEC. 107. (a) No person who acquires property or an interest therein after the date of enactment of this Act in an area surrounding an airport with respect to which a noise exposure map has been submitted under section 103 of this title shall be entitled to recover damages with respect to the noise attributable to such airport if such person had actual or constructive knowledge of the existence of such noise exposure map unless, in addition to any other elements for recovery of damages, such person can show that— Recovery of damage provisions. 49 USC 2107.

(1) a significant change in the type or frequency of aircraft operations at the airport; or

(2) a significant change in the airport layout; or

(3) a significant change in the flight patterns; or

(4) a significant increase in nighttime operations;

occurred after the date of the acquisition of such property or interest therein and that the damages for which recovery is sought have resulted from any such change or increase.

Constructive knowledge.

(b) For purposes of this section, constructive knowledge shall be imputed, at a minimum, to any person who acquires property or an interest therein in an area surrounding an airport after the date of enactment of this Act if—

(1) prior to the date of such acquisition, notice of the existence of a noise exposure map for such area was published at least three times in a newspaper of general circulation in the county in which such property is located; or

(2) a copy of such noise exposure map is furnished to such person at the time of such acquisition.

Study.
49 USC 2108.
Ante, p. 51.

SEC. 108. The Secretary shall study (1) airport noise compatibility planning carried out with grants made under section 13 of the Airport and Airway Development Act of 1970, and (2) airport noise compatibility programs carried out with grants made under this title, to determine to what extent such planning and programs are achieving the goals of reducing existing noncompatible uses of land around airports and preventing the introduction of new noncompatible uses around airports. Not later than January 1, 1981, the Secretary shall submit a report to Congress setting forth the determinations made pursuant to such studies together with legislative recommendations, if any, which the Secretary determines necessary.

Report to Congress.

TITLE II

SEC. 201. (a) Paragraph (3) of subsection (a) of section 14 of the Airport and Airway Development Act of 1970 (49 U.S.C. 1714) is amended by striking out "$525,000,000 for fiscal year 1980." and inserting in lieu thereof "$569,000,000 for fiscal year 1980.".

(b) Paragraph (4) of subsection (a) of section 14 of the Airport and Airway Development Act of 1970 is amended by striking out "$85,000,000 for fiscal year 1980." and inserting in lieu thereof "$98,000,000 for fiscal year 1980.".

Repeal.

(c) The last sentence of paragraph (2) of subsection (b) of section 14 of the Airport and Airway Development Act of 1970 is hereby repealed.

Obligation or expenditure, reduction of available amount.

(d) Subsection (e) of section 14 of the Airport and Airway Development Act of 1970 is amended by adding at the end thereof the following new sentence: "If in fiscal year 1980, or in any subsequent fiscal year, the total amount obligated under subsection (c) of this section in such fiscal year is less than the minimum amount made available for obligation under such subsection for such fiscal year, the amount available for obligation or expenditure as determined under the preceding sentence of this subsection shall be reduced by an amount equal to the difference between the amount made available under subsection (c) for such fiscal year and the total amount obligated under such subsection (c) for such fiscal year.".

(e) Subsections (a), (c), and (d) of section 14 of the Airport and Airway Development Act of 1970 are amended by inserting the phrase "or more than" immediately after the words "not less than" each time those words appear therein.

Apportionment of funds.

SEC. 202. (a) Paragraph (4) of subsection (a) of section 15 of the Airport and Airway Development Act of 1970 (49 U.S.C. 1715(a)(4)) is amended by striking out "and minus $15,000,000 in the case of each of the fiscal years 1977 through 1980," and inserting in lieu thereof "and minus $15,000,000 in the case of fiscal years 1977 through 1979, and minus $20,000,000 in the case of fiscal year 1980,".

(b) Paragraph (4) of subsection (a) of section 15 of the Airport and Airway Development Act of 1970 is further amended by striking out

"and $15,000,000 of the amount made available for each of the other fiscal years" and inserting in lieu thereof "$15,000,000 of the amount made available for each of the fiscal years 1977 through 1979, and $20,000,000 of the amount made available for fiscal year 1980".

Project costs.

SEC. 203. Paragraph (2)(A) of subsection (a) of section 17 of the Airport and Airway Development Act of 1970 (49 U.S.C. 1717) is amended by striking out "1980," and inserting in lieu thereof "shall be 90 per centum of the allowable project costs in the case of grants from funds for fiscal year 1980,".

Trust fund amounts, availability.

SEC. 204. Subparagraph (A) of section 208(f)(1) of the Airport and Airway Revenue Act of 1970, as amended (49 U.S.C. 1742(f)(1)(A)) is amended by striking out all after "1976" and inserting in lieu thereof "or of the Aviation Safety and Noise Abatement Act of 1979 (as such Acts were in effect on the date of enactment of the Aviation Safety and Noise Abatement Act of 1979);".

Airport development projects, approval. Environmental impact statement, waiver.

SEC. 205. Subsection (c) of section 16 of the Airport and Airway Development Act of 1970 (49 U.S.C. 1716(c)) is amended by adding at the end thereof the following new paragraph:

"(5) Notwithstanding any other provision of law, the Secretary may approve an application for an airport development project (other than an airport development project to which subsection (d)(1) applies) at an existing airport without requiring the preparation of an environmental impact statement with respect to noise for such project if:

"(A) completion of the project would allow existing aircraft operations at the airport that involve aircraft that do not comply with the noise standards prescribed for 'stage 2' aircraft in 14 CFR 36.1 to be replaced by aircraft operations involving aircraft that do comply with such standards;

"(B) the project complies with all other statutory and administrative requirements imposed under this Act.".

SEC. 206. Part II of the Airport and Airway Development Act of 1970 (49 U.S.C. 1711 et seq.) is amended by adding at the end thereof the following new section:

Airport development project, approval. 49 USC 1731.

"SEC. 31. Notwithstanding any other provision of this title, no airport development project involving the construction or extension of any runway may be approved by the Secretary at any general aviation airport located astride a line separating two counties within a single State if, before the submission of such project to the Secretary, such project has not been approved by the governing body of any village incorporated under the laws of that State which is located entirely within five miles of the nearest boundary of such airport.".

TITLE III

DEFINITIONS

49 USC 2121.

SEC. 301. For purposes of this title—

(1) the term "noncomplying aircraft" means any civil subsonic turbojet powered aircraft (A) which (i) has a maximum certificated takeoff weight of 75,000 pounds or more, and (ii) in the case of an aircraft registered in the United States, has a standard airworthiness certificate issued pursuant to section 603(c) of the Federal Aviation Act of 1958 (49 U.S.C. 1423), and (B) which does not comply with the noise standards prescribed for new subsonic aircraft in regulations issued by the Secretary, acting through the Administrator of the Federal Aviation Administration (14

CFR part 36), as such regulations were in effect on January 1, 1977; and

(2) the term "Secretary" means the Secretary of Transportation.

COMPLIANCE FOR INTERNATIONAL CARRIERS

Rulemaking. 49 USC 2122.

SEC. 302. (a) If, by January 1, 1980, the International Civil Aviation Organization (hereafter referred to as "ICAO") does not reach an agreement (1) which adopts the noise standards prescribed for new subsonic aircraft in regulations issued by the Secretary, acting through the Administrator of the Federal Aviation Administration (14 CFR part 36), as such regulations were in effect on January 1, 1977, or (2) on noise standards and an international schedule for compliance with ICAO Noise Standards (annex 16) which are substantially compatible with the standards set forth in such regulations issued by the Secretary (14 CFR parts 36 and 91), the Secretary, acting through the Administrator, shall commence a rulemaking to require all air carriers and foreign air carriers engaging in foreign air transportation to comply with the noise standards set forth in such regulations (14 CFR parts 36 and 91) or with ICAO Noise Standards (annex 16) which are substantially compatible with the standards set forth in such regulations issued by the Secretary (14 CFR parts 36 and 91) during the 5-year period thereafter, at a phased rate of compliance similar to that in effect for aircraft registered in the United States. The requirement applied to air carriers engaging in foreign air transportation shall not be more stringent than those applied to foreign air carriers. Such rulemaking shall be concluded within 120 days.

Termination.

Rulemaking.

(b) If, prior to January 1, 1980, the International Civil Aviation Organization reaches an agreement on noise standards that complies with clause (a)(1) or (a)(2) of this section, the Secretary, acting through the Administrator of the Federal Aviation Administration, shall immediately commence a rulemaking to require all air carriers and foreign air carriers engaging in foreign air transportation to comply with the noise standards set forth in such agreement at a phased rate of compliance similar to that in effect for aircraft registered in the United States. The requirement applied to air carriers engaging in foreign air transportation shall not be more stringent than those applied to foreign air carriers. Such rulemaking shall be concluded within 120 days.

Termination.

NEW TECHNOLOGY AIRCRAFT INCENTIVE

Noncomplying three-engine aircrafts; noise standards, exemption. 49 USC 2123.

SEC. 303. (a) The Secretary shall provide an exemption from applicable noise standards to permit the operation of any noncomplying three-engine aircraft, but not beyond January 1, 1985, if (1) the operator of such aircraft has a plan for the replacement of such aircraft which has been approved by the Secretary, and (2) the operator of such aircraft has entered into a binding contract by January 1, 1983, for delivery prior to January 1, 1985, of a replacement aircraft which meets, at a minimum, the noise standards for new type certificated aircraft set forth in regulations issued by the Secretary, acting through the Administrator of the Federal Aviation Administration, on March 2, 1978 (F.R. Vol. 43, p. 8722, et seq.).

14 CFR Part 36.

Noncomplying two-engine aircrafts; noise standards, exemption.

(b) The Secretary shall provide an exemption from applicable noise standards to permit the operation of any noncomplying two-engine aircraft, but not beyond January 1, 1986, if (1) the operator of such aircraft has a plan for the replacement of such aircraft which has

been approved by the Secretary, and (2) the operator of such aircraft has entered into a binding contract by January 1, 1983, for delivery prior to January 1, 1986, of a replacement aircraft which meets, at a minimum, the noise standards for new type certificated aircraft set forth in regulations issued by the Secretary, acting through the Administrator of the Federal Aviation Administration, on March 2, 1978 (F.R. Vol. 43, p. 8722, et seq.). 14 CFR 36.

SMALL COMMUNITY SERVICE EXEMPTION

SEC. 304. (a) The Secretary shall provide an exemption from applicable noise standards to any person operating a noncomplying two-engine aircraft to permit such person to operate such aircraft. 49 USC 2124.

(b) Any exemption issued pursuant to this section shall terminate on whichever of the following dates first occurs: Termination.

(1) in the event such operator sells or otherwise disposes of such aircraft to another person on or after January 1, 1983, on the date such aircraft is delivered to such other person;

(2) in the case of an aircraft with a seating configuration of 100 passenger seats or less, on January 1, 1988; or

(3) in the case of an aircraft with a seating configuration of more than 100 passenger seats, on January 1, 1985.

(c) For the purposes of subsection (b) of this section, the seating configuration of an aircraft shall be the seating configuration that existed on such aircraft on December 1, 1979, or such earlier date as the Secretary may establish in individual cases. Seating configuration.

TRADEOFF ALLOWANCE

SEC. 305. Notwithstanding any other provision of law or any rule, regulation, or order issued pursuant thereto, the tradeoff provisions contained in appendix C of part 36 of title 14 of the Code of Federal Regulations shall apply in determining whether any aircraft complies with the provisions of subpart E of part 91 of title 14 of the Code of Federal Regulations. 49 USC 2125. 14 CFR 36. 14 CFR 91.

TITLE IV

SEC. 401. Not later than 90 days after the date of enactment of this Act, and each January 31 thereafter, until implementation of collision avoidance systems in the national air traffic control system, the Secretary of Transportation shall submit to the Congress a report on the status of the development of such systems. Such reports shall set forth proposed timetables for the implementation of such systems. The Secretary of Transportation's report shall include proposals for any legislation needed to implement such systems. Report to Congress. 49 USC 1348 note.

SEC. 402. Section 1112 of the Federal Aviation Act of 1958 is amended to read as follows: 49 USC 1512.

"STATE OR SUBDIVISION INCOME TAX ON COMPENSATION PAID TO INTERSTATE AIR CARRIER EMPLOYEES

"SEC. 1112. (a) No part of the compensation paid by an air carrier to an employee who performs his regularly assigned duties as such an employee on an aircraft in more than one State, shall be subject to the income tax laws of any State or subdivision thereof other than the State or subdivision thereof of such employee's residence and the State or subdivision thereof in which such employee earns more than 50 per centum of the compensation paid by the carrier to such employee.

"(b) For the purposes of subsection (a), an employee shall be deemed to have earned 50 per centum of his compensation in any State or subdivision in which his scheduled flight time in such State or subdivision is more than 50 per centum of his total scheduled flight time in the calendar year while so employed.

"State."

"(c) For the purposes of this section the term 'State' also means the District of Columbia and any of the possessions of the United States; and the term 'compensation' shall mean all moneys received for services rendered by the employee in the performance of his duties and shall include wages and salary.".

"Compensation."

49 USC 1301.

SEC. 403. That portion of the table of contents contained in the first section of the Federal Aviation Act of 1958 which appears under the heading

"TITLE XI—MISCELLANEOUS"

is amended by striking the item designated as "Sec. 1112" and inserting in lieu thereof:

"Sec. 1112. State or subdivision income tax on compensation paid to interstate air carrier employees.".

TITLE V

Regulations.
49 USC 1359.

SEC. 501. (a) The Administrator of the Federal Aviation Administration (hereinafter referred to as the "Administrator") shall, within 90 days after the date of enactment of this Act, promulgate regulations for airports operated by the Administration to regulate the access to public areas by individuals or by religious and nonprofit organizations (as defined in section 501(c)(3) of the Internal Revenue Code of 1954) for the purpose of soliciting funds or distributing materials.

26 USC 501.

Fund solicitation, permit application.

(b) In promulgating regulations under this section the Administrator shall consider requiring any individual or organization described in subsection (a) to submit an application for a permit to engage in the soliciting of funds or the distribution of materials. In considering such an application the Administrator may require that—

(1) a responsible individual representative of the applicant shall be designated to represent the organization,

(2) each individual participating in any solicitation or distribution will display a proper identification approved by the Administrator,

(3) the number of individuals engaged in any solicitation or distribution at any one time shall not exceed a reasonable number, in keeping with the need for free movement in and operation of the airports as provided for by the permit,

(4) the solicitation or distribution be confined to limited areas and times, and

(5) no individual or organization which holds a permit under this section shall be permitted to—

(A) use sound amplification or display signs (other than signs approved by the Administrator);

(B) intentionally interfere with users of the airport;

(C) engage in the use of indecent or obscene remarks or conduct; or

(D) engage in the use of loud, threatening, or abusive language intended to coerce, intimidate or disturb the peace.

Posting of permit.

(c)(1) The Administrator shall consider requiring that a copy of a permit (if such is required) be conspicuously posted in the area in which any solicitation or distribution is permitted.

(2) The Administrator shall consider whether revocation of approval for any permit if required and approved under this section should occur for any violation of any rule or regulation promulgated hereunder.

(d) Regulations intended to be promulgated under this section shall be submitted to Congress within 30 days after the date of enactment of this Act. Regulations, submittal to Congress.

SEC. 502. (a) Paragraph (1) of section 902(l) of the Federal Aviation Act of 1958 (49 U.S.C. 1472(l)(1)) is amended to read as follows: Carrying weapons or explosives aboard aircraft.

"(1) With respect to any aircraft in, or intended for operation in air transportation or intrastate air transportation, whoever—

"(A) while aboard, or while attempting to board such aircraft has on or about his person or his property a concealed deadly or dangerous weapon which is, or could be, accessible to such person in flight;

"(B) has placed, attempted to place, or attempted to have placed a loaded firearm aboard such aircraft in baggage or other property which is not accessible to passengers in flight; or

"(C) has on or about his person, or who placed, attempted to place, or attempted to have placed aboard such aircraft any bomb or similar explosive or incendiary device;

shall be fined not more than $1,000 or imprisoned not more than one year, or both.". Penalty.

(b) Paragraph (3) of section 902(l) of the Federal Aviation Act of 1958 is amended— Conditional provisions.

(1) by striking out "This subsection" and by inserting in lieu thereof "Paragraph (1)(A) of this subsection";

(2) by inserting "officers or employees of" before "the Federal Government"; and

(3) by inserting "(other than loaded firearms)" after "persons transporting weapons".

(c) Section 902(l) of the Federal Aviation Act of 1958 is amended by adding at the end thereof the following new paragraph:

"(4) For purposes of this subsection—

"(A) the term 'firearm' means any starter gun and any weapon which is designed to or has been converted to expel any projectile by the action of an explosive; and "Firearm."

"(B) the term 'loaded firearm' means any firearm which has a cartridge, a detonator, or powder in the chamber, magazine, cylinder, or clip of such firearm.". "Loaded firearm."

SEC. 503. (a) Except as provided in subsection (c), notwithstanding any other provision of law, neither the Secretary of Transportation, the Civil Aeronautics Board, nor any other officer or employee of the United States shall issue, reissue, amend, revise, or otherwise modify (either by action or inaction) any certificate or other authority to permit or otherwise authorize any person to provide the transportation of individuals, by air, as a common carrier for compensation or hire between Love Field, Texas, and one or more points outside the State of Texas, except (1) charter air transportation not to exceed ten flights per month, and (2) air transportation provided by commuter airlines operating aircraft with a passenger capacity of 56 passengers or less. Certain flights into and from Love Field, Tex.

(b) Except as provided in subsections (a) and (c), notwithstanding any other provision of law, or any certificate or other authority heretofore or hereafter issued thereunder, no person shall provide or offer to provide the transportation of individuals, by air, for compensation or hire as a common carrier between Love Field, Texas, and one or more points outside the State of Texas, except that a person

providing service to a point outside of Texas from Love Field on November 1, 1979, may continue to provide service to such a point.

(c) Subsections (a) and (b) shall not apply with respect to, and it is found consistent with the public convenience and necessity to authorize, transportation of individuals, by air, on a flight between Love Field, Texas, and one or more points within the States of Louisiana, Arkansas, Oklahoma, New Mexico, and Texas by an air carrier, if (1) such air carrier does not offer or provide any through service or ticketing with another air carrier or foreign air carrier, and (2) such air carrier does not offer for sale transportation to or from, and the flight or aircraft does not serve, any point which is outside any such State. Nothing in this subsection shall be construed to give authority not otherwise provided by law to the Secretary of Transportation, the Civil Aeronautics Board, any other officer or employee of the United States, or any other person.

Effective date.
Ante, p. 35.

(d) This section shall not take effect if enacted after the enactment of the International Air Transportation Competition Act of 1979.

Approved February 18, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 96-475 (Comm. on Public Works and Transportation); No. 96-203, pt. 1 (Comm. on Public Works and Transportation) and No. 96-203, pt. 2 (Comm. on Interstate and Foreign Commerce), both accompanying H.R. 3942; and 96-715 (Comm. of Conference).

SENATE REPORT No. 96-52 accompanying S. 413 (Comm. on Commerce, Science, and Transportation).

CONGRESSIONAL RECORD:

Vol. 125 (1979): Apr. 10, May 1, S. 413 considered and passed Senate.
Oct. 22, H.R. 2440 considered and passed House; passed Senate, amended, in lieu of S. 413.

Vol. 126 (1980): Jan. 31, House agreed to conference report.
Feb. 5, Senate agreed to conference report.

Public Law 96-194
96th Congress

Joint Resolution

To validate the effectiveness of certain plans for the use or distribution of funds appropriated to pay judgments awarded to Indian tribes or groups.

Feb. 21, 1980
[S.J. Res. 108]

Whereas, pursuant to Public Law 93-134 (Act of October 19, 1973; 87 Stat. 466; 25 U.S.C. 1401), the Secretary of the Interior or his designee has submitted plans for the use or distribution of funds appropriated to pay judgments awarded to Indian tribes or groups; and

Whereas none of such plans have been disapproved by congressional action; and

Whereas a recent July 9, 1979, decision of the United States District Court for the District of Columbia in the case of Seminole Indian Tribe of Florida versus Andrus has called into question the effectiveness and validity of those plans submitted to Congress under Public Law 93-134; and

Whereas it is the purpose of this resolution to validate the effectiveness of the plans (other than the plan involved in the Seminole decision and a plan involving the tribes of the Warm Springs Reservation which is the subject of pending litigation) which were submitted to the Congress pursuant to Public Law 93-134: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following plans for the use or distribution of funds submitted to the Congress pursuant to Public Law 93-134 are hereby declared to be valid and effective as of the dates indicated:

Indians, distribution of funds for judgments; validation of plans.

Tribe or group	Docket number(s)	Effective date
Washoe	ICC 288	September 25, 1974.
Seneca	ICC 342-A and 368-A	September 26, 1974.
Fort Berthold (Three Affiliated Tribes).	ICC 350-A, E, and H	October 2, 1974.
Paiute, Northern	ICC 87	October 10, 1974.
Nez Perce	ICC 175-B	October 10, 1974.
Cherokee, Eastern	ICC 282-A through L	October 10, 1974.
Ponca	ICC 322, 323, and 324	November 23, 1974.
Tuscarora	ICC 321	December 18, 1974.
Chippewa, Red Lake	ICC 189	February 3, 1975.
Sioux, Yankton	ICC 332-B	February 7, 1975.
Kikiallus	ICC 263	February 18, 1975.
Skagit, Lower	ICC 294	February 18, 1975.
Lummi	ICC 110	March 3, 1975.
Apache, Chiricahua	ICC 30 and 48 and 30-A and 48-A	March 16, 1975.
Sioux, Cheyenne River	ICC 114	March 16, 1975.
Iowa	ICC 135	March 24, 1975.
Ottawa, Oklahoma	ICC 304 and 305	June 17, 1975.
Pueblos de Jemez, Santa Ana, and Zia.	ICC 137	June 17, 1975.
Apache, Jicarilla	ICC 22-K	July 8, 1975.
Suquamish	ICC 132	September 14, 1975.
Winnebago	ICC 243, 244, and 245	October 30, 1975.
Cabazon	ICC 148	October 30, 1975.
Apache, Western	ICC 22-D	December 3, 1975.

Tribe or group	Docket number(s)	Effective date
Cherokee	ICC 173-A	November 5, 1975.
Navajo	Ct. Cl. 49692	November 17, 1975.
Creek, Oklahoma	ICC 167-273	November 16, 1975.
Angoon	ICC 278-B	February 1, 1976.
Samish	ICC 261	December 10, 1975.
Swinomish	ICC 233	December 10, 1975.
Shawnee	ICC 334-B	March 5, 1976.
Mohave	ICC 283 and 295	April 12, 1976.
Chippewa, Pillager	ICC 144	April 28, 1976.
Yakima	ICC 161, 222, and 224	May 13, 1976.
Colville	ICC 161, 222, and 224	May 21, 1976.
Kiowa-Comanche-Apache	ICC 257 and 259-A	June 8, 1976.
Fort Berthold (Three Affiliated Tribes).	ICC 350-F	June 20, 1976.
Flathead (Confederated Salish and Kootenai).	Ct. Cl. 50233 No. 8 and No. 9	August 25, 1976.
Seneca	ICC 84; 342-B, C, and 368; 342-F and I.	January 29, 1977.
Six Nations and Stockbridge-Munsee	ICC 84 and 300-B, ICC 300	March 4, 1977.
Devils Lake Sioux	ICC 363	July 23, 1977.
Saginaw Chippewa	ICC 57	November 12, 1977.
Fort Berthold Three Affiliated Tribes	ICC 350-C and D	March 13, 1978.
Fort Mohave	ICC 295-A	November 12, 1977.
Potawatomi	ICC 15-K, 29-J, 217, 15-M, 29-K, and 146.	March 6, 1978.
Mescalero (Lipan)	ICC 22-C	April 9, 1978.
Taos Pueblo	ICC 357-A	April 10, 1978.
Colville-Nez Perce	ICC 186	May 1, 1978.
Creek	ICC 275	June 15, 1978.
Seneca Nation	ICC 342-G	February 1, 1979.
Lake Superior and Mississippi Chippewa.	ICC 18-C and 18-T	February 1, 1979.
Sisseton-Wahpeton	ICC 363 (1867 and 1872)	March 26, 1979.
Pyramid Lake	ICC 87-B	June 12, 1979.
Bois Forte Chippewa	ICC 18-D	June 5, 1979.
Caddo	ICC 226	September 17, 1979.
Goshute	ICC 326-B and J	October 19, 1979.
Nisqually	ICC 197	October 31, 1979.
Potawatomi, Prairie Band	ICC 15-K, 29-J, 217, 15-M, 29-K and 146.	September 7, 1979.

SEC. 2. The foregoing plans for the use or distribution of funds submitted to the Congress pursuant to Public Law 93-134 are hereby declared to have been validly submitted and are exempted from the submission deadline in section 2 of said Act and shall be effective as provided in section 5 of said Act.

25 USC 1402.
25 USC 1405.

Approved February 21, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-417 accompanying H.J. Res. 383 (Comm. on Interior and Insular Affairs).
SENATE REPORT No. 96-469 (Comm. on Indian Affairs).
CONGRESSIONAL RECORD:
Vol. 125 (1979): Sept. 17, H.J. Res. 383 considered and passed House.
Dec. 14, considered and passed Senate.
Vol. 126 (1980): Feb. 5, considered and passed House.

Public Law 96-195
96th Congress

An Act

To extend the provisions of title XII of the Merchant Marine Act, 1936, relating to war risk insurance.

Feb. 25, 1980
[S. 1452]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1214 of the Merchant Marine Act, 1936 (46 U.S.C. 1294), is amended by striking "September 30, 1979" and inserting in lieu thereof "September 30, 1984".

Merchant Marine Act, 1936, amendment.

Approved February 25, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-738 accompanying H.R. 5784 (Comm. on Merchant Marine and Fisheries).
SENATE REPORT No. 96-550 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Jan. 25, considered and passed Senate.
Feb. 11, considered and passed House, in lieu of H.R. 5784.

79-194 O—81—pt. 1——8 : QL3

Public Law 96-196
96th Congress

Joint Resolution

Feb. 28, 1980
[H.J. Res. 469]

Designating February 19, 1980, as "Iwo Jima Commemoration Day".

Whereas the battle of Iwo Jima produced the most famous and lasting symbol of the courage and resolute determination that brought victory to the Armed Forces of the United States during World War II; and

Whereas the battle of Iwo Jima was a military victory critical to the assault on Japan, providing a base for American fighter escorts and a way station for bombers raiding Japan; and

Whereas the invasion of Iwo Jima cost five thousand nine hundred and thirty-one American lives and seventeen thousand two hundred and seventy-two casualties; and

Whereas the 19th of February 1980 marks the thirty-fifth anniversary of the invasion of Iwo Jima: Now, therefore, be it

Iwo Jima Commemoration Day. Designation.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That February 19, 1980, is designated as "Iwo Jima Commemoration Day" and the President is requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate ceremonies and activities.

Approved February 28, 1980.

LEGISLATIVE HISTORY:

SENATE REPORT No. 96-573 accompanying S.J. Res. 140 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Feb. 13, considered and passed House.
Feb. 19, considered and passed Senate in lieu of S.J. Res. 140.

Public Law 96-197
96th Congress

Joint Resolution

To authorize and request the President to issue a proclamation honoring the memory of Walt Disney on the twenty-fifth anniversary of his contribution to the American dream.

Feb. 28, 1980
[H.J. Res. 477]

Whereas the name of Walt Disney is synonymous with love of children, the joy and freedom of youth, and the strength of the family bond; and

Whereas twenty-five years ago, Walt Disney made tangible these most basic and cherished values in a magic land where age relives fond memories of the past and youth may savor the challenge and promises of the future; and

Whereas Walt Disney's dream embodies the ideals, the hopes, and the hard work that have created America; and

Whereas this embodiment contributes to the international understanding of American life and purpose; and

Whereas official recognition of Walt Disney and his dream-come-true will enhance the United States, nationally and internationally, as a land where wholesome family pastimes are both encouraged and enjoyed; and

Whereas the silver anniversary of Walt Disney's creation makes appropriate a salute to its creator: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue a proclamation honoring the memory of Walt Disney on the twenty-fifth anniversary of his contribution to the American dream.

Walt Disney, twenty-fifth anniversary. Designation authorization.

Approved February 28, 1980.

LEGISLATIVE HISTORY:

CONGRESSIONAL RECORD, Vol. 126 (1980):
Feb. 13, considered and passed House.
Feb. 18, considered and passed Senate.

Public Law 96-198
96th Congress

Joint Resolution

Mar. 5, 1980
[H.J. Res. 267]

To provide for designation of Friday, March 7, 1980, as "Teacher Day, United States of America".

Whereas teachers, through education of the young, provide both the foundation of modern civilization and the means for enhancing the lives of all members of society; and

Whereas the personal inspiration and enrichment which students receive from their teachers extend far beyond the few years spent in the classroom to exert a valuable lifelong influence on the young people of this Nation, and through them, on all of our citizens; and

Whereas teachers richly deserve individual recognition, honor, and encouragement for their dedication and excellence in the pursuit of their profession; and such recognition, honor, and encouragement should be bestowed each year on a nationwide basis; and

Whereas students, parents, school administrators, and all other citizens of the United States should be encouraged to personally communicate by word and deed to their present and former teachers, the special appreciation and recognition that teachers so richly deserve: Now, therefore, be it

Teacher Day, United States of America. Designation authorization.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is hereby authorized and requested to issue a proclamation designating Friday, March 7, 1980, as "Teacher Day, United States of America", and inviting the people of the United States to observe the period with appropriate activities.

Approved March 5, 1980.

LEGISLATIVE HISTORY:

SENATE REPORT No. 96-576 accompanying S.J. Res. 135 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Feb. 25, considered and passed House.
Feb. 26, S.J. Res. 135 considered and passed Senate.
Feb. 27, Senate vitiated passage of S.J. Res. 135; H.J. Res. 267 passed in lieu.

Public Law 96-199
96th Congress

An Act

To establish the Channel Islands National Park, and for other purposes.

Mar. 5, 1980
[H.R. 3757]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

National Parks and Recreation Act of 1978, amendment.

TITLE I

SEC. 101. The National Parks and Recreation Act of 1978, approved November 10, 1978 (92 Stat. 3467), is amended as follows:

16 USC 1 note.

(a) Section 318, re: Point Reyes National Seashore is amended by:

Point Reyes National Seashore, area description.
16 USC 459c-1.

(1) in subsection (a), change the period following "May 1978" to a comma and insert "plus those areas depicted on the map entitled 'Point Reyes and GGNRA Amendments, dated October 25, 1979'.";

16 USC 459c-5.

(2) in subsection (b), changing the word "The" at the beginning of section 5(a) to "Except for property which the Secretary specifically determines is needed for interpretive or resources management purposes of the seashore, the";

(3) in subsection (c), after "May 1, 1978", inserting "or, in the case of areas added by action of the Ninety-sixth Congress, May 1, 1979", and at the end of the subsection, following the word "property", inserting "that were in existence or under construction as of May 1, 1978";

(4) in subsection (d), changing the phrase "subsection (c)" to read "subsections (c), (d), and (e)" and adding the following at the end thereof:

Lands and improvements, acceptance and management.

"(d) The Secretary is authorized to accept and manage in accordance with this Act, any lands and improvements within or adjacent to the seashore which are donated by the State of California or its political subdivisions. He is directed to accept any such lands offered for donation which comprise the Tomales Bay State Park, or lie between said park and Fish Hatchery Creek. The boundaries of the seashore shall be changed to include any such donated lands.

"(e) Notwithstanding any other provision of law, no fee or admission charge may be levied for admission of the general public to the seashore.";

(5) adding a new subsection (f) as follows:

Appropriation authorization.
16 USC 459c-7.

"(f) Section 9 of such Act is amended by adding at the end thereof: 'In addition to the sums heretofore authorized by this section, there is further authorized to be appropriated $5,000,000 for the acquisition of lands or interests therein.'.";

(b) Section 551, re: the National Trails System Act is amended by:

North Country National Scenic Trail.
16 USC 1244.

(1) in paragraph (9), add the following at the end thereof:

"(8) The North Country National Scenic Trail, a trail of approximately thirty-two hundred miles, extending from eastern New York State to the vicinity of Lake Sakakawea in North Dakota, following the approximate route depicted on the map identified as 'Proposed North Country Trail-Vicinity Map' in the Department of the Interior 'North Country Trail Report', dated June 1975. The map shall be on

Administration.

file and available for public inspection in the office of the Director, National Park Service, Washington, District of Columbia. The trail shall be administered by the Secretary of the Interior.";

16 USC 1244.

(2) in paragraph (15), subsection (e), delete the "," after Continental Divide National Scenic Trail, and insert "and the North Country National Scenic Trail,";

(3) in paragraph (15), subsection (f), after the phrase "Continental Divide National Scenic Trail", insert "or the North Country National Scenic Trail";

16 USC 1249.

(4) in paragraph (23), revise subsection (c) to read as follows:

Appropriation authorization.

"(c) There is hereby authorized to be appropriated such sums as may be necessary to implement the provisions of this Act relating to the trails designated by paragraphs 5(a) (3), (4), (5), (6), (7), and (8): *Provided*, That no such funds are authorized to be appropriated prior to October 1, 1978: *And provided further*, That notwithstanding any other provisions of this Act or any other provisions of law, no funds may be expended by Federal agencies for the acquisition of lands or interests in lands outside the exterior boundaries of existing Federal areas for the Continental Divide National Scenic Trail, the North Country National Scenic Trail, the Oregon National Historic Trail, the Mormon Pioneer National Historic Trail, the Lewis and Clark National Historic Trail, and the Iditarod National Historic Trail.".

16 USC 410y-1a.

(c) Section 320, re: Chesapeake and Ohio Canal National Historical Park, is amended by changing the colon following the word "acres" to a period, and by deleting the proviso in its entirety.

SEC. 102. The Wild and Scenic Rivers Act of 1968 (82 Stat. 906), as amended (16 U.S.C. 1271), is further amended—

16 USC 1276.

(a) in section 5(a) by adding the following new clause at the end thereof:

"(76) Birch, West Virginia: The main stem from the Cora Brown Bridge in Nicholas County to the confluence of the river with the Elk River in Braxton County.".

(b) in section 5(b) by deleting "(75)" and inserting "(76)".

Revised boundary map.

SEC. 103. The Act of October 27, 1972 (86 Stat. 1299), as amended (16 U.S.C. 459), is further amended as follows:

16 USC 460bb.

(a) In subsection 2(a), change the period following "October 1978" to a comma and insert "plus those areas depicted on the map entitled 'Point Reyes and GGNRA Amendments and dated October 25, 1979.'".

16 USC 460bb-1.

16 USC 460bb-5.

(b) In section 6, after "$61,610,000" insert "plus $15,500,000", after "herein", insert "said total development ceiling to be reduced by $10,000,000".

Report and annual listing.

SEC. 104. The Act of August 18, 1970 (84 Stat. 825), as amended, is further amended as follows:

16 USC 1a-5.

(a) In section 8 near the end thereof, delete the sentence "Each report and annual listing shall be printed as a House document.", and insert in lieu the following: "Each report and annual listing shall be printed as a House document: *Provided*, That should adequate supplies of previously printed identical reports remain available, newly submitted identical reports shall be omitted from printing upon the receipt by the Speaker of the United States House of Representatives of a joint letter from the chairman of the Committee on Interior and Insular Affairs of the United States House of Representatives and the chairman of the Committee on Energy and Natural Resources of the United States Senate indicating such to be the case."; and

(b) Insert "(a)" after "SEC. 8." and add a new subsection (b) as follows:

"(b) Within six months of the date of enactment of this subsection, the Secretary shall submit to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate, a comprehensive, 'National Park System Plan', which document shall constitute a professional guide for the identification of natural and historic themes of the United States, and from which candidate areas can be identified and selected to constitute units of the National Park System. Such plan shall be revised and updated annually.". National Park System Plan, submitttal to congressional committees.

SEC. 105. (a) The Secretary of the Interior is authorized to revise the boundaries of the following units of the National Park System: Boundary revisions.

(1) Carl Sandburg Home National Historic Site, North Carolina: to add approximately seventeen acres.

(2) Chickamauga and Chattanooga National Military Park, Georgia and Tennessee: to add approximately one acre.

(3) Fredericksburg and Spotsylvania County Battlefields Memorial National Military Park, Virginia: to add approximately twenty acres.

(b) Sections 302, 303, and 304 of the National Parks and Recreation Act of 1978 (92 Stat. 3467) shall be applicable to the boundary revisions authorized in subsection (a) of this section, except that for the purposes of this section, the date of enactment referred to in section 302 of such Act shall be deemed to be the date of enactment of this section.

(c) For the purposes of acquiring the lands and interests in lands added to the units referred to in subsection (a), there are authorized to be appropriated from the Land and Water Conservation Fund such sums as may be necessary, but not to exceed $304,000 for Chickamauga and Chattanooga National Military Park and not to exceed $234,000 for Fredericksburg and Spotsylvania County Battlefields Memorial National Military Park. Appropriation authorization.

SEC. 106. The Secretary of the Interior is authorized and directed to take such measures as may be necessary to provide for the continued protection of the historic Palmer's Chapel in the Cataloochee Valley of the Great Smoky Mountains National Park. The importance of the chapel in memorializing the early settlement of the valley and in providing an opportunity for interpreting the cultural traditions of the former residents of the valley is hereby recognized, and the Secretary is authorized to make suitable arrangements for the history of the chapel to be communicated to park visitors and for the chapel to continue to be used for memorial purposes by former residents and their descendants. Palmer's Chapel, continued protection. 16 USC 403k-3.

SEC. 107. Section 304(a) of the Act of October 21, 1976 (90 Stat. 2732), is amended by inserting after "to the jurisdiction of the" the following: "Secretary of the Army, the land under the jurisdiction of the".

SEC. 108. The Act of June 30, 1944 (58 Stat. 645), as amended (16 U.S.C. 450bb), is further amended (1) by changing "Boundary Map, Harpers Ferry National Historical Park", numbered 385-40,000D and dated April 1974 to "Boundary Map, Harpers Ferry National Historical Park", numbered 385-80,021A and dated April 1979 and changing "two thousand acres" to "two thousand four hundred and seventy-five acres" in the first section; and (2) by changing "$1,300,000" to "$1,600,000" in section 4. Boundary Map, Harpers Ferry National Historical Park.

SEC. 109. Subsection 5(b) of the Act of October 13, 1964 (78 Stat. 1087), an Act "To authorize the Secretary of the Interior to cooperate with the State of Wisconsin in the designation and administration of the Ice Age National Scientific Reserve in the State of Wisconsin, and 16 USC 450bb note. Ice Age National Scientific Reserve, Wis., grants. 16 USC 469h.

for other purposes", as amended (16 U.S.C. 469h), is further amended by changing "$425,000" to "$2,500,000".

Appropriation authorization. 16 USC 251m.

SEC. 110. Section 320 of the Act of October 21, 1976 (90 Stat. 2732), is amended in subsection (j) by changing "$13,000,000" to "$23,700,000".

16 USC 459d-7.

SEC. 111. Paragraph (13) of section 101 of the Act entitled "An Act to provide for increases in appropriation ceilings and boundary changes in certain units of the National Park System, and for other purposes", approved October 21, 1976 (90 Stat. 2732, 2733), is amended by changing the period to a semicolon and inserting the following thereafter: "the Secretary of the Interior is authorized to revise the boundary of the seashore to add approximately two hundred and seventy-four acres and to delete approximately two thousand acres, and sections 302 and 303 of the Act of April 11, 1972 (86 Stat. 120, 121), shall apply to the boundary revision authorized herein.".

16 USC 459d-1 note.

Fort Saint Jean Baptiste de Natchitoches, La.

SEC. 112. (a) In order to commemorate the first European settlement in Louisiana, Fort Saint Jean Baptiste de Natchitoches (hereinafter called the "fort"), the Secretary is authorized to render the State of Louisiana such assistance, in the form of technical advice, grants of funds for land acquisition and development, and other help necessary to reconstruct the fort: *Provided*, That no funds shall be expended for reconstruction unless the Secretary determines that such reconstruction can be based on historical documentation.

Agreements with the State of Louisiana.

(b) The Secretary is authorized to enter into a cooperative agreement with the State of Louisiana and affected local governmental authorities which agreement shall include but not limited to—

(1) assurances that the State of Louisiana shall operate and maintain the fort as a public area;

(2) assurances that the State of Louisiana shall incur all operation and maintenance costs;

(3) assurances by the State of Louisiana that they will manage the fort consistent with its historic character; and

(4) authority for the Secretary to obtain reimbursement from or offset against the State of Louisiana of all Federal funds previously granted under this section, including subsequent violation of paragraph (3) of this subsection.

Appropriation authorization.

(c) There is hereby authorized to be appropriated not to exceed $2,813,000 for the purposes of this section: *Provided*, That the Secretary may expend not to exceed 75 per centum of the total cost incurred in the reconstruction of the fort.

Memorial in Washington D.C. for USN men and women. 16 USC 431 note.

SEC. 113. (a) The United States Navy Memorial Foundation is authorized to erect a memorial on public grounds in the District of Columbia in honor and in commemoration of the men and women of the United States Navy who have served their country in war and peace.

(b)(1) The Secretary is authorized and directed to select, with the approval of the National Commission of Fine Arts and the National Capital Planning Commission, a suitable site on public grounds of the United States, in the District of Columbia or on such grounds principally serving as a site for national monuments along the Potomac River in Northern Virginia, upon which may be erected the memorial authorized in subsection (a).

(2) The design and plans for such memorial shall be subject to the approval of the Secretary, the National Commission of Fine Arts, and the National Capital Planning Commission.

(3) Other than as to the land authorized for the erection of the memorial in paragraph (1) of this subsection, neither the United States nor the District of Columbia shall be put to any expense in the erection of this memorial.

(c) The authority conferred pursuant to this section shall lapse unless (1) the erection of such memorial is commenced within five years from the date of enactment of this section, and (2) prior to its commencement funds are certified available in an amount sufficient, in the judgment of the Secretary to insure completion of the memorial.

(d) The maintenance and care of the memorial erected under the provisions of this section shall be the responsibility of the Secretary. Maintenance and care.

SEC. 114. Section 206 of the Act of October 15, 1966 (80 Stat. 915), is amended by deleting all of subsection 6(c) and inserting in lieu thereof the following: 16 USC 470n.

"(c) For the purposes of this section there is authorized to be appropriated an amount equal to the assessment for United States membership in the Centre for fiscal years 1979, 1980, 1981, and 1982: *Provided*, That no appropriation is authorized and no payment shall be made to the Centre in excess of 25 per centum of the total annual assessment of such organization. Authorization for payment of such assessments shall begin in fiscal year 1981, but shall include earlier costs.". Appropriation authorization.

SEC. 115. (a) The Secretary of the Interior is authorized to revise the boundary of the Saratoga National Historic Park to add approximately one hundred and forty-seven acres. 16 USC 159e.

(b) For the purposes of acquiring land and interest in land added to the unit referred to in subsection (a) there are authorized to be appropriated from the Land and Water Conservation Fund such sums as may be necessary but not to exceed $74,000 for Saratoga National Historic Park. Appropriation authorization.

SEC. 116. The Secretary of the Interior shall designate the David Berger Memorial located at the Jewish Community Center in Cleveland Heights, Ohio, as a national memorial. The significance of the memorial in preserving the memory of the eleven Israeli athletes who were assassinated at the Olympic games in Munich, Germany, in 1972 is, by this designation, recognized by the Congress. David Berger Memorial, Cleveland, Ohio, designation. 16 USC 431 note.

SEC. 117. The Secretary of the Interior is authorized to acquire by purchase with donated or appropriated funds not to exceed two and one-half acres of land and submerged lands, waters, or interest therein, at Charleston, South Carolina, known generally as the Fleet Landing Site, for purposes of a mainland tour boat facility for access to Fort Sumter National Monument. Property so acquired shall be administered as a part of Fort Sumter National Monument. There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this section. Fleet Landing site, Charleston, S.C., acquisition. Appropriation authorization.

SEC. 118. Subsection 507(q) of the Act of November 10, 1978 (92 Stat. 3506) is amended in clause (2)(E) by changing "5" to "9". 16 USC 460kk.

SEC. 119. (a) In order to protect the unique scenic, scientific, educational, and recreational values of certain lands in and around Yaquina Head, in Lincoln County, Oregon, there is hereby established, subject to valid existing rights, the Yaquina Head Outstanding Natural Area (hereinafter referred to as the "area"). The boundaries of the area are those shown on the map entitled "Yaquina Head Area", dated July 1979, which shall be on file and available for public inspection in the Office of the Director, Bureau of Land Management, United States Department of the Interior, and the State Office of the Bureau of Land Management in the State of Oregon. Yaquina Head Outstanding Natural Area, Oreg., establishment. 43 USC 1783.

(b)(1) The Secretary of the Interior (hereinafter referred to as the "Secretary") shall administer the Yaquina Head Outstanding Natural Area in accordance with the laws and regulations applicable to the public lands as defined in section 103(e) of the Federal Land Administration.

Policy and Management Act of 1976, as amended (43 U.S.C. 1702), in such a manner as will best provide for—

(A) the conservation and development of the scenic, natural, and historic values of the area;

(B) the continued use of the area for purposes of education, scientific study, and public recreation which do not substantially impair the purposes for which the area is established; and

(C) protection of the wildlife habitat of the area.

Management plan, development.

(2) The Secretary shall develop a management plan for the area which accomplishes the purposes and is consistent with the provisions of this section. This plan shall be developed in accordance with the provisions of section 202 of the Federal Land Policy and Management Act of 1976, as amended (43 U.S.C. 1712).

Quarrying of materials, permits and contracts.

(3) Notwithstanding any other provision of this section, the Secretary is authorized to issue permits or to contract for the quarrying of materials from the area in accordance with the management plan for the area on condition that the lands be reclaimed and restored to the satisfaction of the Secretary. Such authorization to quarry shall require payment of fair market value for the materials to be quarried, as established by the Secretary, and shall also include any terms and conditions which the Secretary determines necessary to protect the values of such quarry lands for purposes of this section.

Reservation of lands for lighthouse purposes, revocation.

(c) The reservation of lands for lighthouse purposes made by Executive order of June 8, 1866, of certain lands totaling approximately 18.1 acres, as depicted on the map referred to in subsection 119(a), is hereby revoked. The lands referred to in subsection 119(a) are hereby restored to the status of public lands as defined in section 103(e) of the Federal Land Policy and Management Act of 1976, as amended (43 U.S.C. 1702), and shall be administered in accordance with the management plan for the area developed pursuant to subsection 119(b), except that such lands are hereby withdrawn from settlement, sale, location, or entry, under the public land laws, including the mining laws (30 U.S.C., ch. 2), leasing under the mineral leasing laws (30 U.S.C. 181 et seq.), and disposals under the Materials Act of July 31, 1947, as amended (30 U.S.C. 601, 602).

39 USC 21 *et seq.*

(d) The Secretary shall, as soon as possible but in no event later than twenty-four months following the date of the enactment of this section, acquire by purchase, exchange, donation, or condemnation all or any part of the lands and waters and interests in lands and waters within the area referred to in subsection 119(a) which are not in Federal ownership except that State land shall not be acquired by purchase or condemnation. Any lands or interests acquired by the Secretary pursuant to this section shall become public lands as defined in the Federal Land Policy and Management Act of 1976, as amended. Upon acquisition by the United States, such lands are automatically withdrawn under the provisions of subsection 119(c) except that lands affected by quarrying operations in the area shall be subject to disposals under the Materials Act of July 31, 1947, as amended (30 U.S.C. 601, 602). Any lands acquired pursuant to this subsection shall be administered in accordance with the management plan for the area developed pursuant to subsection 119(b).

43 USC 1702.

Administration.

Wind energy research, study.

(e) The Secretary is authorized to conduct a study relating to the use of lands in the area for purposes of wind energy research. If the Secretary determines after such study that the conduct of wind energy research activity will not substantially impair the values of the lands in the area for purposes of this section, the Secretary is further authorized to issue permits for the use of such lands as a site for installation and field testing of an experimental wind turbine

generating system. Any permit issued pursuant to this subsection shall contain such terms and conditions as the Secretary determines necessary to protect the values of such lands for purposes of this section.

Terms and conditions.

(f) The Secretary shall develop and administer, in addition to any requirements imposed pursuant to paragraph 119(b)(3), a program for the reclamation and restoration of all lands affected by quarrying operations in the area acquired pursuant to subsection 119(d). All revenues received by the United States in connection with quarrying operations authorized by paragraph 119(b)(3) shall be deposited in a separate fund account which shall be established by the Secretary of the Treasury. Such revenues are hereby authorized to be appropriated to the Secretary as needed for reclamation and restoration of any lands acquired pursuant to subsection 119(d). After completion of such reclamation and restoration to the satisfaction of the Secretary, any unexpended revenues in such fund shall be returned to the general fund of the United States Treasury.

Development and administration.

Appropriation authorization.

(g) There are hereby authorized to be appropriated in addition to that authorized by subsection 119(f), such sums as may be necessary to carry out the provisions of this section.

Appropriation authorization.

SEC. 120. (a) The Secretary of the Interior (hereinafter referred to as the "Secretary") is authorized to conduct a survey of sites which he deems exhibit qualities most appropriate for the commemoration of each former President of the United States. The survey may include sites associated with the deeds, leadership, or lifework of a former President, and it may identify sites or structures historically unrelated to a former President but which may be suitable as a memorial to honor such President.

Presidential monument sites, survey.
16 USC 467b.

(b) The Secretary shall, from time to time, prepare and transmit to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the United States Senate reports on individual sites and structures identified in the survey referred to in subsection (a), together with his recommendation as to whether such site or structure is suitable for establishment as a national historic site or national memorial to commemorate a former President. Each such report shall include pertinent information with respect to the need for acquisition of lands and interests therein, the development of facilities, and the operation and maintenance of the site or structure and the estimated cost thereof. If during the six-month period following the transmittal of a report pursuant to this subsection neither Committee has by vote of a majority of its members disapproved a recommendation of the Secretary that a site or structure is suitable for establishment as a national historic site, the Secretary may thereafter by appropriate order establish the same as a national historic site, including the lands and interests therein identified in the report accompanying his recommendation. The Secretary may acquire the lands and interests therein by donation, purchase with donated or appropriated funds, transfer from any other Federal agency, or exchange, and he shall administer the site in accordance with the Act of August 25, 1916 (39 Stat. 535), as amended and supplemented, and the Act of August 21, 1935 (49 Stat. 666), as amended.

Individual sites and structures; report to congressional committees.

16 USC 1–4, 22, 43.
16 USC 450m, 450n.

(c) Nothing in this section shall be construed as diminishing the authority of the Secretary under the Act of August 21, 1935 (49 Stat. 666), as amended, or as authorizing the Secretary to establish any national memorial, creation of which is hereby expressly reserved to the Congress.

Appropriation authorization.

(d) There is authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.

SEC. 121. Authorizations of moneys to be appropriated under this Act shall be effective on October 1, 1980. Notwithstanding any other provisions of this Act, authority to enter into contracts, to incur obligations, or to make payments under this Act shall be effective only to the extent, and in such amounts, as are provided in advance in appropriation Acts.

TITLE II

Channel Islands National Park, Calif. Establishment. 16 USC 410ff.

SEC. 201. In order to protect the nationally significant natural, scenic, wildlife, marine, ecological, archaeological, cultural, and scientific values of the Channel Islands in the State of California, including, but not limited to, the following:

(1) the brown pelican nesting area;

(2) the undisturbed tide pools providing species diversity unique to the eastern Pacific coast;

(3) the pinnipeds which breed and pup almost exclusively on the Channel Islands, including the only breeding colony for northern fur seals south of Alaska;

(4) the Eolian landforms and caliche;

(5) the presumed burial place of Juan Rodriquez Cabrillo; and

(6) the archaeological evidence of substantial populations of Native Americans;

there is hereby established the Channel Islands National Park, the boundaries of which shall include San Miguel and Prince Islands, Santa Rosa, Santa Cruz, Anacapa, and Santa Barbara Islands, including the rocks, islets, submerged lands, and waters within one nautical mile of each island, as depicted on the map entitled, "Proposed Channel Islands National Park" numbered 159-20,008 and dated April 1979, which shall be on file and available for public inspection in the offices of the Superintendent of the park and the Director of the National Park Service, Department of the Interior. The Channel Islands National Monument is hereby abolished as such, and the lands, waters, and interests therein withdrawn or reserved for the monument are hereby incorporated within and made a part of the new Channel Islands National Park.

Channel Islands National Monument. Abolishment.

16 USC 410ff-1.

SEC. 202. (a) Within the boundaries of the park as established in section 201, the Secretary of the Interior (hereinafter referred to as the "Secretary") is authorized to acquire lands, waters, or interests therein (including but not limited to scenic easements) by donation, purchase with donated or appropriated funds, transfer from any Federal agency, exchange, or otherwise. Unless the property is wholly or partially donated, the Secretary shall pay to the owner the fair market value of the property on the date of its acquisition, less the fair market value on that date of any right retained by the owner. Any lands, waters, or interests therein owned by the State of California or any political subdivision thereof shall not be acquired. Notwithstanding any other provision of law, Federal property located within the boundaries of the park shall with the concurrence of the head of the agency having custody thereof, be transferred to the administrative jurisdiction of the Secretary for the purposes of the park: *Provided,* That the Secretary shall permit the use of federally owned park lands and waters which (i) have been transferred from another Federal agency pursuant to this section or which (ii) were the subject of a lease or permit issued by a Federal agency as of the date of enactment of this title, for essential national security missions and

California lands or interests, exemption.

for navigational aids, subject to such terms and conditions as the Secretary deems necessary to protect park resources.

Nature Conservancy Lands, acquisition.

(b) Notwithstanding the acquisition authority contained in subsection 202(a), any lands, waters, or interests therein, which are owned wholly or in part, by or which hereafter may be owned by, or under option to, the National Park Foundation, The Nature Conservancy (including any lands, waters, or interests therein which are designated as "Nature Conservancy Lands" on the map referred to in section 201 of this title) or any similar national, nonprofit conservation organization, or an affiliate or subsidiary thereof shall be acquired only with the consent of the owner thereof: *Provided*, That the Secretary may acquire such property in accordance with the provisions of this Act if he determines that the property is undergoing or is about to undergo a change in use which is inconsistent with the purposes of this title.

Santa Rosa Island lands, priority acquisition.

(c) With respect to the privately owned lands on Santa Rosa Island, the Secretary shall acquire such lands as expeditiously as possible after the date of enactment of this title. The acquisition of these lands shall take priority over the acquisition of other privately owned lands within the park.

(d)(1) The owner of any private property may, on the date of its acquisition and as a condition of such acquisition, retain for himself a right of use and occupancy of all or such portion of such property as the owner may elect for a definite term of not more than twenty-five years, or ending at the death of the owner, or his spouse, whichever is later. The owner shall elect the term to be reserved. Any such right retained pursuant to this subsection with respect to any property shall be subject to termination by the Secretary upon his determination that such property is being used for any purpose which is incompatible with the administration of the park or with the preservation of the resources therein, and it shall terminate by operation of law upon notification by the Secretary to the holder of the right, of such determination and tendering to him the amount equal to the fair market value of that portion which remains unexpired.

Lease agreement with former owner.

(2) In the case of any property acquired by the Secretary pursuant to this title with respect to which a right of use and occupancy was not reserved by the former owner pursuant to this subsection, at the request of the former owner, the Secretary may enter into a lease agreement with the former owner under which the former owner may continue any existing use of such property which is compatible with the administration of the park and with the preservation of the resources therein.

(3) Any right retained pursuant to this subsection, and any lease entered into under paragraph (2), shall be subject to such access and other provisions as may be required by the Secretary for visitor use and resources management.

Natural resources study report, development.
16 USC 410ff-2.

SEC. 203. (a) The Secretary is directed to develop, in cooperation and consultation with the Secretary of Commerce, the State of California, and various knowledgeable Federal and private entities, a natural resources study report for the park, including, but not limited to, the following:

(1) an inventory of all terrestrial and marine species, indicating their population dynamics, and probable trends as to future numbers and welfare;

(2) recommendations as to what actions should be considered for adoption to better protect the natural resources of the park.

Submittal to congressional committees.

Such report shall be submitted within two complete fiscal years from the date of enactment of this title to the Committee on Interior and

Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate, and updated revisions of such report shall be similarly submitted at subsequent two year intervals to cover a period of ten years after the date of enactment of this title.

Cooperative agreements with State of California.

(b) The Secretary is authorized and directed to enter into and continue cooperative agreements with the Secretary of Commerce and the State of California for the enforcement of Federal and State laws and regulations on those lands and waters within and adjacent to the park which are owned by the State of California. No provision of this title shall be deemed to affect the rights and jurisdiction of the State of California within the park, including, but not limited to, authority over submerged lands and waters within the park boundaries, and the marine resources therein.

16 USC 410ff-3.

SEC. 204. (a) Subject to the provisions of section 201 of this title, the Secretary shall administer the park in accordance with the provisions of the Act of August 25, 1916 (39 Stat. 535), as amended and supplemented (16 U.S.C. 1 et seq.). In the administration of the park, the Secretary may utilize such statutory authority available for the conservation and management of wildlife and natural and cultural resources as he deems appropriate to carry out the purposes of this title. The park shall be administered on a low-intensity, limited-entry basis.

(b) In recognition of the special fragility and sensitivity of the park's resources, it is the intent of Congress that the visitor use within the park be limited to assure negligible adverse impact on the park resources. The Secretary shall establish appropriate visitor carrying capacities for the park.

Comprehensive general management plan, submittal to congressional committees.

(c)(1) Within three complete fiscal years from the date of enactment of this title, the Secretary, in consultation with The Nature Conservancy and the State of California, shall submit to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate, a comprehensive general managment plan for the park, pursuant to criteria stated in the provisions of section 12(b) of the Act of August 18, 1970 (84 Stat. 825), as amended (16 U.S.C. 1a-1 et seq.). Such plan shall include alternative considerations for the design and operation of a public transportation system connecting the park with the mainland, with such considerations to be developed in cooperation with the State of California and the Secretary of Transportation. The Secretary shall seek the advice of the scientific community in the preparation of said plan, and conduct hearings for public comment in Ventura and Santa Barbara Counties.

16 USC 1a-7.

Hearings.

(2) Those aspects of such a plan which relate to marine mammals shall be prepared by the Secretary of Commerce, in consultation with the Secretary and the State of California.

Federal funds, approval for expenditure.

16 USC 410ff-4.

SEC. 205. The head of any Federal agency having direct or indirect jurisdiction over a proposed Federal or federally assisted undertaking with respect to the lands and waters within or adjacent or related to the park, and the head of any Federal agency having authority to license or permit any undertaking with respect to such lands and waters, shall, prior to the approval of the expenditure of any Federal funds on such undertaking or prior to the issuance of any license or permit, as the case may be, afford the Secretary a reasonable opportunity to comment with regard to such undertaking and shall give due consideration to any comments made by the Secretary and to

the effect of such undertaking on the purposes for which the park is established.

Review of park area: report to President. 16 USC 410ff-5. 16 USC 1132.

SEC. 206. Within three complete fiscal years from the date of enactment of this title, the Secretary shall review the area within the park and shall report to the President, in accordance with subsections 3 (c) and (d) of the Wilderness Act (78 Stat. 890), his recommendations as to the suitability or nonsuitability of any area within the park for designation as wilderness. Any designation of any such areas as wilderness shall be accomplished in accordance with said subsections of the Wilderness Act.

16 USC 1131 note.

SEC. 207. Notwithstanding any other provision of law, no fees shall be charged for entrance or admission to the park.

16 USC 410ff-6.

SEC. 208. The Secretary is authorized to expend Federal funds for the cooperative management of The Nature Conservancy and other private property for research, resources management, and visitor protection and use. All funds authorized to be appropriated for the purposes of the Channel Islands National Monument are hereby transferred to the Channel Islands National Park. Effective October 1, 1980, there are hereby authorized to be appropriated such further sums as may be necessary to carry out the purposes of this title, but not to exceed $500,000 for development. From the Land and Water Conservation Fund there is authorized to be appropriated $30,100,000 for the purposes of land acquisition. For the authorizations made in this section, any amounts authorized but not appropriated in any fiscal year shall remain available for appropriation in succeeding fiscal years.

16 USC 410ff-7.

Transfer of funds.

Appropriation authorizations.

Approved March 5, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 96-119 (Comm. on Interior and Insular Affairs), No. 96-182, Pt. I accompanying H.R. 2975 (Comm. on Interior and Insular Affairs) and No. 96-182, Pt. II accompanying H.R. 2975 (Comm. on Merchant Marine and Fisheries).

SENATE REPORT No. 96-484 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD:

Vol. 125 (1979): May 7, considered and passed House.

Vol. 126 (1980): Feb. 18, considered and passed Senate, amended.

Feb. 20, House concurred in Senate amendments.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:

Vol. 16, No. 10 (1980): Mar. 5, Presidential statement.

Public Law 96-200
96th Congress

Joint Resolution

Mar. 6, 1980
[S.J. Res. 109]

To provide for the designation of October 3, 1980, as "American Enterprise Day".

Whereas America's enterprise system is a cornerstone in our society; and

Whereas that system has produced the highest standard of living in the world; and

Whereas that system depends on and rewards individual initiative and innovation; and

Whereas American productivity is vital to the world's economy and must be encouraged; and

Whereas the continuance and growth of our enterprise system depends in large part on the education of America's young men and women concerning that system: Now, therefore, be it

American Enterprise Day. Designation authorization.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States is authorized and requested to issue a proclamation designating October 3, 1980, as "American Enterprise Day" and encouraging appropriate Government agencies to foster the recognition of the significance of America's enterprise system on that day.

Approved March 6, 1980.

LEGISLATIVE HISTORY:

CONGRESSIONAL RECORD:
Vol. 125 (1979): Oct. 31, considered and passed Senate.
Vol. 126 (1980): Feb. 25, considered and passed House, amended.
Feb. 26, Senate concurred in House amendments.

Public Law 96-201
96th Congress

An Act

To authorize the President of the United States to present on behalf of the Congress a specially struck gold medal to Ambassador Kenneth Taylor.

Mar. 6, 1980
[H.R. 6374]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the President of the United States is authorized to present, on behalf of the Congress, to Ambassador Kenneth Taylor, a gold medal of appropriate design in recognition of his valiant efforts to secure the safe return of six American Embassy officials in Tehran. For such purpose, the Secretary of the Treasury is authorized and directed to cause to be struck a gold medal with suitable emblems, devices, and inscriptions, to be determined by the Secretary of the Treasury. There are authorized to be spent from already appropriated funds not to exceed $20,000 to carry out the provisions of this subsection.

Ambassador Kenneth Taylor.
Commemorative medal.

Cost.

(b) The Secretary of the Treasury may cause duplicates in bronze of such medal to be coined and sold under such regulations as he may prescribe, at a price sufficient to cover the cost thereof, including labor, materials, dies, use of machinery, overhead expenses, and the gold medal, and the appropriation used for carrying out the provisions of this subsection shall be reimbursed out of the proceeds of such sale.

Duplicates.

(c) The medals provided for in this Act are national medals for the purpose of section 3551 of the Revised Statutes (31 U.S.C. 369).

31 USC 368.

Approved March 6, 1980.

LEGISLATIVE HISTORY:

CONGRESSIONAL RECORD, Vol. 126 (1980):
Feb. 11, 12, considered and passed House.
Feb. 21, considered and passed Senate, amended.
Feb. 25, House concurred in Senate amendment.

79-194 O—81—pt. 1——9 : QL3

Public Law 96-202
96th Congress

Joint Resolution

Mar. 8, 1980
[S.J. Res. 43]

To proclaim March 21, 1980, "National Energy Education Day".

Whereas inexpensive and abundant energy permitted our great Nation to rise to a position of pre-eminence in the world community of nations; and

Whereas events of recent years have shown that traditional energy resources are in potentially short supply and these massive changes in the world energy production and distribution system have made this subject a focal point of domestic and foreign policy; and

Whereas the development of new energy technologies, including solar energy and other renewable resources, promise to reduce our dependence on insecure and hostile foreign cartels; and

Whereas these fundamental changes require the update of our educational system at all grade levels to prepare our youth to meet the new demands which are being created; and

Whereas a National Energy Education Day (NEED) will bring together teachers, school officials, parent groups, to help the Nation's children understand the international energy crisis; and

Whereas NEED must be a total educational effort, the start of an ongoing process which can demonstrate that to ignore the plight of an energy shortfall and to fail to seek sound remedies would be an error: Now, therefore, be it

National Energy Education Day. Designation authorization.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That March 21, 1980, is proclaimed "National Energy Education Day" to commence an ongoing program of energy education in schools, both public and private, at all grade levels, and the President is authorized and requested to issue (A) a proclamation calling upon the general public and education institutions of the United States to observe this day with appropriate activities and ceremonies, and (B) to direct all appropriate Federal agencies to cooperate with and participate in, the celebration of "National Energy Education Day".

Approved March 8, 1980.

LEGISLATIVE HISTORY:

SENATE REPORT No. 96-279 (Comm. on the Judiciary).
CONGRESSIONAL RECORD:
Vol. 125 (1979): Aug. 2, considered and passed Senate.
Vol. 126 (1980): Feb. 25, considered and passed House.

Public Law 96-203
96th Congress

An Act

To authorize the conveyance of lands in the city of Hot Springs, Arkansas.

Mar. 10, 1980
[S. 1850]

Hot Springs, Ark. Land conveyance.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding any provisions of the Act of May 8, 1922 (42 Stat. 506), the Leo N. Levi Memorial Hospital Association is authorized to assign or convey all or any portion of or interests in and to lots one and two, in block 114 in the city of Hot Springs, Arkansas, to a nonprofit corporation organized under the laws of the State of Arkansas, its successors or assigns, for the purpose of erecting and maintaining thereon a housing facility for the elderly. Execution of such assignment or conveyance by the Leo N. Levi Memorial Hospital Association and execution of mortgages by said nonprofit corporation or its successors or assigns, in connection with the housing facility, shall not constitute a forfeiture of any rights granted to the Leo N. Levi Memorial Hospital Association by said Act of May 8, 1922. If at any time after lots one or two of block 114 are assigned or conveyed to said nonprofit corporation the property is used or permitted to be used for purposes other than housing facilities for the elderly or the purposes provided for in the Act of May 8, 1922, all the rights, privileges, and powers in such property authorized by this Act or by said Act of May 8, 1922, shall be forfeited to the United States.

SEC. 2. The Land and Water Conservation Fund Act of 1965 (78 Stat. 897), as amended (16 U.S.C. 460l–4 et seq.), is further amended as follows: 16 USC 460*l*-9.

(1) in subsection 7(a), within the paragraph numbered (3), after the phrase "Ninety-fifth Congress", insert the phrase "or, in the case of national recreation areas, prior to the convening of the Ninety-sixth Congress"; and

(2) in subsection 7(c), change "expire ten years from the date of enactment of the authorizing legislation establishing such boundaries;" to "apply only to those boundaries established subsequent to January 1, 1965;".

National Maritime Museum, whaling artifacts, display. Appropriation authorization.

SEC. 3. The Secretary of the Interior is authorized to acquire by donation, or by purchase with donated or appropriated funds, a suitable collection of whaling artifacts and associated items for preservation and display at the National Maritime Museum located at the Golden Gate National Recreation Area. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section, but not to exceed $3,000,000 for the purchase of said collection, which sums may be appropriated from the amounts previously authorized for development purposes at said recreation area.

Approved March 10, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-783 (Comm. on Interior and Insular Affairs).
SENATE REPORT No. 96-473 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 125 (1979): Dec. 18, considered and passed Senate.
Vol. 126 (1980): Feb. 25, considered and passed House, amended.
Feb. 26, Senate concurred in House amendments.

Public Law 96-204
96th Congress

Joint Resolution

To authorize and request the President to issue a proclamation designating April 6 through 12, 1980, "National Medic Alert Week".

Mar. 11, 1980
[H.J. Res. 434]

Whereas approximately forty million Americans, nearly one-fifth of our Nation's population, are afflicted with diabetes, heart conditions, epilepsy, allergies, or other medical problems the symptoms of which, in emergency situations, are difficult to detect or are not readily associated with such medical problems; and

Whereas many such Americans suffer avoidable injury or death each year because of the delay which is frequently involved in the proper diagnosis and treatment of such hidden medical problems in emergency situations; and

Whereas special emergency identification and information services are available which are designed with the needs of victims of such hidden medical conditions specifically in mind; and

Whereas these emergency identification and information systems have been credited with saving the lives of more than two thousand people afflicted by hidden medical conditions each year: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue a proclamation designating April 6 through 12, 1980, "National Medic Alert Week", and calling upon the people of the United States and upon interested associations and organizations to observe such week with appropriate ceremonies and activities.

National Medic Alert Week. Designation authorization.

Approved March 11, 1980.

EGISLATIVE HISTORY:

ENATE REPORT No. 96-575 (Comm. on the Judiciary) and No. 96-578 accompanying S.J. Res. 132 (Comm. on the Judiciary).

ONGRESSIONAL RECORD:
Vol. 125 (1979): Nov. 29, considered and passed House.
Vol. 126 (1980): Feb. 28, considered and passed Senate.

Public Law 96-205
96th Congress

An Act

Mar. 12, 1980
[H.R. 3756]

To authorize appropriations for certain insular areas of the United States, and f other purposes.

Be it enacted by the Senate and House of Representatives of th United States of America in Congress assembled,

United States insular areas. Appropriation authorization.

TITLE I—TRUST TERRITORY OF THE PACIFIC ISLANDS

48 USC 1681 note.

SEC. 101. Section 2 of the Act of June 30, 1954 (68 Stat. 330), i amended by inserting after "for fiscal year 1980, $112,000,000;" th following: "for fiscal years after fiscal year 1980, such sums as may b necessary, including, but not limited to, sums needed for completion of the capital improvement program, for a basic communications system, and for a feasibility study and construction of a hydroelectric project on Ponape;".

SEC. 102. The Act entitled "An Act to authorize certain appropri ations for the territories of the United States, to amend certain Acts relating thereto, and for other purposes" (91 Stat. 1159; Public Law 95-134) is amended by inserting after section 105, the following new section:

Radiation exposure, compensation, research, and medical care. 48 USC 1681 note.

"SEC. 106. (a) In addition to any other payments or benefits provided by law to compensate inhabitants of the atolls of Bikini, Enewetak, Rongelap, and Utirik, in the Marshall Islands, for radiation exposure or other losses sustained by them as a result of the United States nuclear weapons testing program at or near their atolls during the period 1946 to 1958, the Secretary of the Interior (hereinafter in this section referred to as the 'Secretary') shall provide for the people of the atolls of Bikini, Enewetak, Rongelap, and Utirik and for the people of such other atolls as may be found to be or to have been exposed to radiation from the nuclear weapons testing program, a program of medical care and treatment and environmental research and monitoring for any injury, illness, or condition which may be the result directly or indirectly of such nuclear weapons testing program. The program shall be implemented according to a plan developed by the Secretary in consultation with the Secretaries of Defense, Energy, and Health, Education, and Welfare and with the direct involvement of representatives from the people of each of the affected atolls and from the government of the Marshall Islands. The plan shall set forth, as appropriate to the situation, condition, and needs of the individual atoll peoples:

"(1) an integrated, comprehensive health care program including primary, secondary, and tertiary care with special emphasis upon the biological effects of ionizing radiation;

"(2) a schedule for the periodic comprehensive survey and analysis of the radiological status of the atolls to and at appropriate intervals, but not less frequently than once every five years, the development of an updated radiation dose assessment, together with an estimate of the risks associated with the predicted human exposure, for each such atoll; and

"(3) an education and information program to enable the people of such atolls to more fully understand nuclear radiation and its effects;

"(b)(1) The Secretary shall submit the plan to the Congress no later than January 1, 1981, together with his recommendations, if any, for further legislation. The plan shall set forth the specific agencies responsible for implementing the various elements of the plan. With respect to general health care the Secretary shall consider, and shall include in his recommendations, the feasibility of using the Public Health Service. After consultation with the Chairman of the National Academy of Sciences, the Secretary of Energy, the Secretary of Defense, and the Secretary of Health, Education, and Welfare, the Secretary shall establish a scientific advisory committee to review and evaluate the implementation of the plan and to make such recommendations for its improvement as such committee deems advisable.

Plan, submittal to Congress.

Scientific advisory committee.

"(2) At the request of the Secretary, any Federal agency shall provide such information, personnel, facilities, logistical support, or other assistance as the Secretary deems necessary to carry out the functions of this program; the costs of all such assistance shall be reimbursed to the provider thereof out of the sums appropriated pursuant to this section.

Assistance from Federal agencies.

"(3) All costs associated with the development and implementation of the plan shall be assumed by the Secretary of Energy and effective October 1, 1980, there are authorized to be appropriated to the Secretary of Energy such sums as may be necessary to achieve the purposes of this section.

Development and implementation costs.

"(c) The Secretary shall report to the appropriate committees of the Congress, and to the people of the affected atolls annually, or more frequently if necessary, on the implementation of the plan. Each such report shall include a description of the health status of the individuals examined and treated under the plan, an evaluation by the scientific advisory committee, and any recommendations for improvement of the plan. The first such report shall be submitted not later than January 1, 1982.".

Report to congressional committees.

SEC. 103. Paragraph 104(a)(3) of Public Law 95-134 (91 Stat. 1159) is hereby amended by deleting all after the word "cause" and inserting in lieu thereof the following words, ", even if such an individual has been compensated under paragraph (1) of this section.".

SEC. 104. Notwithstanding any other provision of law, except in cases in which the Federal program is terminated with respect to all recipients under the program, Federal programs in the fields of education and health care shall not cease to apply to the Trust Territory of the Pacific Islands or any successor government or governments, nor shall participation in any applicable Federal programs in the fields of education and health care by the Trust Territory of the Pacific Islands or any successor government or governments be denied, decreased or ended, either before or after the termination of the trusteeship, without the express approval of the United States Congress.

Federal education and health care programs.
48 USC 1695.

TITLE II—NORTHERN MARIANA ISLANDS

SEC. 201. (a) The salary and expenses of the government comptroller for the Northern Mariana Islands shall be paid from funds appropriated to the Department of the Interior.

Government comptroller, salary.
48 USC 1681c.

(b) Section 4 of the Act of June 30, 1954, as amended by section 2 of Public Law 93-111 (87 Stat. 354) is further amended as follows:

48 USC 1681b.

(1) strike the words "government of the Trust Territory of the Pacific Islands" wherever they appear and insert in lieu thereof the words "governments of the Trust Territory of the Pacific Islands or the Northern Mariana Islands,";

(2) after the words "High Commissioner of the Trust Territory of the Pacific Islands" insert the words "or Governor of the Northern Mariana Islands, as the case may be,";

(3) wherever the words "High Commissioner" appear and are not followed by the words "of the Trust Territory of the Pacific Islands" insert the words "or Governor, as the case may be,"; and

(4) after the words "District Court of Guam" insert the words "or District Court of the Northern Mariana Islands, as the case may be".

Health care services grant, effective date.

SEC. 202. Effective October 1, 1980, there are hereby authorized to be appropriated to the Secretary of the Interior $24,400,000 plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuations in construction costs from October 1979 price levels as indicated by engineering cost indexes applicable to the types of construction involved, for a grant to the Commonwealth of the Northern Mariana Islands to provide for health care services. No grant may be made by the Secretary of the Interior pursuant to this section without the prior approval of the Secretary of Health, Education, and Welfare.

SEC. 203. Subsection (g) of section 5 of the Act entitled "An Act to authorize appropriations for certain insular areas of the United States, and for other purposes", approved August 18, 1978 (92 Stat. 492), is amended by changing "not to exceed $3,000,000" to "such sums as may be necessary, but not to exceed $3,000,000 for development,".

48 USC 1681 note.

SEC. 204. (a) Section 3(d) of the Act entitled "An Act to authorize appropriations for certain insular areas of the United States, and for other purposes" (Public Law 95-348; 92 Stat. 487) is amended by inserting "(1)" after "(d)" and by inserting "or upon receipt of a resolution adopted by both houses of the legislature of the Northern Mariana Islands accompanied by a letter of request from either the Governor or the Lieutenant Governor of the Northern Mariana Islands," after "Constitution of the Northern Mariana Islands," the first place it appears, and by adding at the end of "(d)" the following new paragraphs:

Administration and enforcement duties.

"(2) For purposes of carrying out any administration and enforcement required by this subsection, the Secretary of the Treasury (hereinafter in this subsection referred to as the 'Secretary'), or his delegate, at no cost to the Northern Marianas government, may (A) employ citizens of the Northern Mariana Islands (as defined by Article III of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States (approved, Public Law 94-241; 90 Stat. 265)), or (B) use the services of employees of the government of the Northern Mariana Islands, upon agreement to pay such government for the use of such services. In addition, the Secretary, or his delegate, shall make every effort to assure that citizens of the Northern Mariana Islands (as so defined) are trained to ultimately assume the administration and enforcement duties required of the Secretary or his delegate under this section. Notwithstanding any other provision of law, the Secretary or his delegate is authorized to the maximum extent feasible in administering and enforcing the requested sections of the Covenant, to employ and train Northern Mariana Islands' citizens without regard to United States Civil Service hiring or job classification laws or any

employment ceilings imposed upon the Secretary. The preceding sentence shall not exempt such Northern Mariana Islands' citizens so hired from any other laws affecting Federal or Internal Revenue Service employees and shall remain in effect until the end of the third full fiscal year following the date of enactment.

"(3) As part of the administration of taxes required by this subsection, the Secretary or his delegate shall establish, at no cost to the Northern Marianas government, a taxpayers information service to provide such information and assistance to citizens of the Northern Mariana Islands (as so defined) as may be necessary for the filing of returns and the payment of such taxes.". Taxpayers information service.

(b) The Secretary shall take such steps as are necessary to ensure that the proceeds of taxes collected under the provisions of sections 601, 602, 603, and 604 of the Covenant (Public Law 94-241) are covered directly upon collection into the treasury of the Commonwealth of the Northern Mariana Islands. Taxes. 48 USC 1681 note. 90 Stat. 269.

SEC. 205. (a) Except as provided in subsection (c), any person, including an individual, trust, estate, partnership, association, company, or corporation, which is a resident of or which is organized under the laws of the Commonwealth of the Northern Mariana Islands and which is subject to the provisions of section 601 of the Covenant to Establish the Commonwealth of the Northern Mariana Islands in Political Union with the United States (Public Law 94-241), shall be exempted from the requirements of such section with respect to income derived from sources within the Commonwealth of the Northern Mariana Islands for taxable years beginning after December 31, 1978, and before January 1, 1981. Nothing in this section shall be construed as relieving such person from the obligation to comply with the requirements of section 601 with respect to income derived from sources outside of the Commonwealth of the Northern Mariana Islands. 48 USC 1681 note.

(b) Except as provided in subsection (c), any person, including an individual, trust, estate, partnership, association, company, or corporation, which is a resident of or which is organized under the laws of the Commonwealth of the Northern Mariana Islands and which is subject to the provisions of section 601 of the Covenant to Establish the Commonwealth of the Northern Mariana Islands (Public Law 94-241), shall be exempt from the requirements of such section with respect to income from sources within the Northern Mariana Islands for its taxable year beginning after December 31, 1980, and before January 1, 1982: *Provided,* That the Secretary receives written notice from the Governor of the Northern Mariana Islands not later than September 30, 1980, that sections 1, 2, 3, 4, and 5 of chapter 2 of Public Law 1-30 of the Commonwealth of the Northern Mariana Islands or its successor, have been repealed in their entirety, effective December 31, 1981.

(c) It is the sense of Congress that the term "rebate" as used in section 602 of Public Law 94-241 does not permit the abatement of taxes. "Rebate."

TITLE III—GUAM

SEC. 301. (a) Subsection (c) of section 204 of Public Law 95-134 (91 Stat. 1159, 1162) is amended by deleting the second sentence of said subsection. 48 USC 1424c.

(b) Any civil action under section 204 of the Omnibus Territories Act of 1977 (91 Stat. 1162) shall be barred unless it is commenced not later than April 1, 1982. 48 USC 1424c note.

SEC. 302. The Act of November 4, 1963 (77 Stat. 302), to provide for the rehabilitation of Guam, and for other purposes, is hereby amended as follows:

(1) in the first sentence of section 3, delete the comma after "United States" and delete the words "with interest as set forth below," and

(2) after paragraph (c) of section 3, delete the last paragraph before section 4 and insert in lieu thereof:

48 USC 1421h.

"All amounts heretofore withheld from sums collected pursuant to section 30 of the said Organic Act as interest on the amounts made available to the government of Guam pursuant to this Act shall be credited as reimbursement payments by Guam on the principal amount advanced by the United States under this Act.".

SEC. 303. Section 11 of the Organic Act of Guam (64 Stat. 387; 48 U.S.C. 1423a), as amended, is hereby amended by deleting all after the words "December 31, 1980.", and substituting the following language:

Guam Power Authority, refinancing obligations.

"The Secretary, upon determining that the Guam Power Authority is unable to refinance on reasonable terms the obligations purchased by the Federal Financing Bank under the fifth sentence of this section by December 31, 1980, may, with the concurrence of the Secretary of the Treasury, guarantee for purchase by the Federal Financing Bank; and such bank is authorized to purchase, obligations of the Guam Power Authority issued to refinance the principal amount of the obligations guaranteed under the fifth sentence of this section. The obligations that refinance such principal amount shall mature not later than December 31, 1990, and shall bear interest at a rate determined in accordance with section 6 of the Federal Financing Bank Act (12 U.S.C. 2285). Should the Guam Power Authority fail to pay in full any installment of interest or principal when due on the bonds or other obligations guaranteed under this section, the Secretary of the Treasury, upon notice from the Secretary shall deduct and pay to the Federal Financing Bank or the Secretary, according to their respective interests, such unpaid amounts from sums collected and payable pursuant to section 30 of this Act (48 U.S.C. 1421h). Notwithstanding any other provision of law, Acts making appropriations may provide for the withholding of any payments from the United States to the government of Guam which may be or may become due pursuant to any law and offset the amount of such withheld payments against any claim the United States may have against the government of Guam or the Guam Power Authority pursuant to this guarantee. For the purpose of this Act, under section 3466 of the Revised Statutes (31 U.S.C. 191) the term 'person' includes the government of Guam and the Guam Power Authority. The Secretary may place such stipulations as he deems appropriate on the bonds or other obligations he guarantees.".

"Person."

TITLE IV—VIRGIN ISLANDS

SEC. 401. (a) Subsection (b) of section 31 of the Revised Organic Act of the Virgin Islands (48 U.S.C. 1545(b)), as amended, is further amended by numbering the existing paragraph "(1)" and by the addition thereto of the following new paragraph:

Property transfer.

"(2) Subject to valid existing rights, title to all property in the Virgin Islands which may have been acquired by the United States from Denmark under the Convention entered into August 16, 1916, not reserved or retained by the United States in accordance with the

39 Stat. 1706.

provisions of Public Law 93-435 (88 Stat. 1210) is hereby transferred to the Virgin Islands government.". 48 USC 1705 *et seq.*

(b) The General Services Administration shall release from the mortgage dated January 26, 1972, given by the government of the Virgin Islands to the Administrator of the General Services Administration, approximately ten acres of such mortgaged land for construction of the proposed Saint Croix armory upon payment by the government of the Virgin Islands of the outstanding principal due on such ten acres.

SEC. 402. No extension, renewal, or renegotiation of the lease of real property on Water Island in the Virgin Islands to which the United States is a party may be entered into before 1992 unless such extension, renewal, or renegotiation is specifically approved by Act of Congress. Water Island property.

SEC. 403. (a) Subsection 28(a) of the Revised Organic Act of the Virgin Islands is amended by inserting after the words "and naturalization fees collected in the Virgin Islands," the following: "(less the cost of collecting such duties, taxes and fees as may be directly attributable (as certified by the Comptroller of the Virgin Islands) to the importation of petroleum products until January 1, 1982: *Provided,* That any other retained costs not heretofore remitted pursuant to the Act of August 18, 1978, shall be immediately remitted to the Treasury of the Virgin Islands notwithstanding any other provision of law)." 48 USC 1642. 92 Stat. 487.

(b) The paragraph entitled "U.S. Customs Service" involving the collection of customs duties in the Virgin Islands in the Act of July 25, 1979, is hereby repealed. Repeal. 93 Stat. 122.

SEC. 404. Subsection (d) of section 4 of Public Law 95-348 (92 Stat. 487, 491) is hereby repealed. 48 USC 1642a. 48 USC 1641 note.

SEC. 405. Any excise taxes levied by the Legislature of the Virgin Islands may be levied and collected as the Legislature of the Virgin Islands may direct as soon as the articles, goods, merchandise, and commodities subject to said tax are brought into the Virgin Islands. Excise taxes. 48 USC 1574 note.

SEC. 406. Not later than two years after the date of enactment of this Act, the Administrator of the General Services Administration shall convey, without consideration, all right, title, and interest of the United States in and to the property known as the former District Court Building (including the parcel of land upon which said building is located), 48 B Norre Gade, St. Thomas, Virgin Islands, to the Government of the Virgin Islands. District Court Building property, transfer.

SEC. 407. Subsection (f) of section 2 of the Act entitled "An Act to authorize the government of the Virgin Islands to issue bonds in anticipation of revenue receipts and to authorize the guarantee of such bonds by the United States under specified conditions, and for other purposes" (90 Stat. 1193; Public Law 94-392; 48 U.S.C. 1574b) is amended by striking out the last sentence and inserting in lieu thereof the following language: "No commitment to guarantee may be issued by the Secretary, and no guaranteed but unobligated funds may be obligated by the government of the Virgin Islands after October 1, 1984. After October 1, 1984, any unobligated proceeds of bonds or other obligations issued by the government of the Virgin Islands pursuant to this section shall be repaid immediately by the government of the Virgin Islands to the lenders with the agreed upon interest. Should there be any delay in the government of the Virgin Islands' making such repayment, the Secretary shall deduct the requisite amounts from moneys under his control that would otherwise be paid to the government of the Virgin Islands under section 28(b) of the Revised Organic Act of the Virgin Islands.". Bonds, issuance. 26 USC 7652.

TITLE V—AMERICAN SAMOA

Government comptroller, salary.
48 USC 1668.

SEC. 501. The salary and expenses of the government comptroller for American Samoa shall be paid from funds appropriated to the Department of the Interior.

Customs duties collection.
48 USC 1669.

SEC. 502. The Secretary of the Treasury shall, upon the request of the Governor of American Samoa, administer and enforce the collection of all customs duties derived from American Samoa, without cost to the government of American Samoa. The Secretary of the Treasury, in consultation with the Governor of American Samoa, shall make every effort to employ and train the residents of American Samoa to carry out the provisions of this section. The administration and enforcement of this section shall commence October 1, 1980.

TITLE VI—MISCELLANEOUS

48 USC 1469a.

SEC. 601. Title V of the Act of October 15, 1977, entitled "An Act to authorize certain appropriations for the territories of the United States, to amend certain Acts relating thereto, and for other purposes" (91 Stat. 1159) shall be applied with respect to the Department of the Interior by substituting "shall" for "may" in the last sentence of subsection (d), and adding the following sentence at the end of subsection (d): "Notwithstanding any other provision of law, in the case of American Samoa and the Northern Mariana Islands any department or agency shall waive any requirement for local matching funds under $100,000 (including in-kind contributions) required by law to be provided by American Samoa or the Northern Mariana Islands.".

SEC. 602. (a) Any amount authorized to be appropriated for a fiscal year by this Act or an amendment made by this Act but not appropriated for such fiscal year is authorized to be appropriated in succeeding fiscal years.

(b) Any amount appropriated pursuant to this Act or an amendment made by this Act for a fiscal year but not expended during such fiscal year shall remain available for expenditure in succeeding fiscal years.

U.S. Government services, facilities, and equipment.
48 USC 1469c.

SEC. 603. To the extent practicable, services, facilities, and equipment of agencies and instrumentalities of the United States Government may be made available, on a reimbursable basis, to the governments of the territories and possessions of the United States and the Trust Territory of the Pacific Islands. Reimbursements may be credited to the appropriation or fund of the agency or instrumentality through which the services, facilities, and equipment are provided. If otherwise authorized by law, such services, facilities, and equipment may be made available without reimbursement.

SEC. 604. Any new borrowing authority provided in this Act or authority to make payments under this Act shall be effective only to the extent or in such amounts as are provided in advance in appropriation Acts.

Nuclear fuel or radioactive waste, transportation and storage.
Report to Congress.
48 USC 1491.

SEC. 605. (a) Prior to the granting of any license, permit, or other authorization or permission by any agency or instrumentality of the United States to any person for the transportation of spent nuclear fuel or high-level radioactive waste for interim, long-term, or permanent storage to or for the storage of such fuel or waste on any territory or possession of the United States, the Secretary of the Interior is directed to transmit to the Congress a detailed report on the proposed transportation or storage plan, and no such license, permit, or other authorization or permission may be granted nor may

any such transportation or storage occur unless the proposed transportation or storage plan has been specifically authorized by Act of Congress: *Provided,* That the provisions of this section shall not apply to the cleanup and rehabilitation of Bikini and Enewetak Atolls.

(b) For the purpose of this section the words "territory or possession" include the Trust Territory of the Pacific Islands and any area not within the boundaries of the several States over which the United States claims or exercises sovereignty. "Territory or possession."

SEC. 606. (a) Section 8 of the Act of March 2, 1917 ("Jones Act"), as amended (48 U.S.C. 749), is amended by adding the following after the last sentence thereof: "Notwithstanding any other provision of law, as used in this section (1) 'submerged lands underlying navigable bodies of water' include lands permanently or periodically covered by tidal waters up to but not above the line of mean high tide, all lands underlying the navigable bodies of water in and around the island of Puerto Rico and the adjacent islands, and all artificially made, filled in, or reclaimed lands which formerly were lands beneath navigable bodies of water; (2) 'navigable bodies of water and submerged lands underlying the same in and around the island of Puerto Rico and the adjacent islands and waters' extend from the coastline of the island of Puerto Rico and the adjacent islands as heretofore or hereafter modified by accretion, erosion, or reliction, seaward to a distance of three marine leagues; (3) 'control' includes all right, title, and interest in and to and jurisdiction and authority over the submerged lands underlying the harbor areas and navigable streams and bodies of water in and around the island of Puerto Rico and the adjacent islands and waters, and the natural resources underlying such submerged lands and waters, and includes proprietary rights of ownership, and the rights of management, administration, leasing, use, and development of such natural resources and submerged lands beneath such waters.". Definitions.

(b) Section 7 of the Act of March 2, 1917 ("Jones Act"), as amended (48 U.S.C. 747), is amended by adding the following after the last sentence thereof: "Notwithstanding any other provision of law, as used in this section 'control' includes all right, title, and interest in and to and jurisdiction and authority over the aforesaid property and includes proprietary rights of ownership, and the rights of management, administration, leasing, use, and development of such property.".

SEC. 607. (a) The first section of the Act entitled "An Act to place certain submerged lands within the jurisdiction of the governments of Guam, the Virgin Islands, and American Samoa, and for other purposes", approved October 5, 1974 (48 U.S.C. 1705), is amended by adding at the end thereof the following new subsection:

"(d)(1) The Secretary of the Interior shall, not later than sixty days after the date of enactment of this subsection, convey to the governments of Guam, the Virgin Islands, and American Samoa, as the case may be, all right, title, and interest of the United States in deposits of oil, gas, and other minerals in the submerged lands conveyed to the government of such territory by subsection (a) of this section. Mineral deposits, conveyance of U.S. rights, title, and interest.

"(2) The conveyance of mineral deposits under paragraph (1) of this subsection shall be subject to any existing lease, permit, or other interest granted by the United States prior to the date of such conveyance. All rentals, royalties, or fees which accrue after such date of conveyance in connection with any such lease, permit, or other interest shall be payable to the government of the territory to which such mineral deposits are conveyed.".

(b) Subsection (c) of the first section of such Act (48 U.S.C. 1705(c)) is amended by inserting "subsection (a) or (b) of" after "pursuant to".

SEC. 608. The following Acts are hereby amended as follows:

(a) In the Act of October 15, 1966 (80 Stat. 915), as amended (16 U.S.C. 470a-t):

16 USC 470a.

(1) amend subsection 101(a) in paragraph (2) by deleting "and" at the end thereof and, in paragraph (3) by deleting "Trust." and inserting in lieu thereof "Trust; and".

(2) amend subsection 101(b) by deleting "and" after "American Samoa," and by changing the period at the end of the paragraph to a comma and inserting "and the Commonwealth of the Northern Mariana Islands."

16 USC 470t.

(3) amend subsection 212(b) by changing "Senate Committee on Interior and Insular Affairs." to "Senate Committee on Energy and Natural Resources.".

(b) In the Act of June 27, 1960 (74 Stat. 220), as amended (16 U.S.C. 469):

16 USC 469a-3.

(1) amend subsection 5(c) by deleting "Interior and Insular Affairs Committee of the United States Congress" and by inserting in lieu thereof "Committee on Interior and Insular Affairs of the House of Representatives and Committee on Energy and Natural Resources of the Senate".

"State."

16 USC 469c-1.

(2) after section 7, add the following new section:

"SEC. 8. As used in this Act, the term 'State' includes the several States of the Union, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands."

16 USC 460*l*-3.

(c) In the Act of May 28, 1963 (77 Stat. 49; 16 U.S.C. 460l-3) amend section 4 by deleting "and American Samoa." and by inserting in lieu thereof "American Samoa, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands.".

Approved March 12, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-120 (Comm. on Interior and Insular Affairs).
SENATE REPORT No. 96-467 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 125 (1979): May 7, considered and passed House.
Vol. 126 (1980): Feb. 7, considered and passed Senate, amended.
Feb. 25, House concurred in Senate amendment with amendments.
Feb. 28, Senate concurred in House amendments.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:
Vol. 16, No. 11 (1980): Mar. 12, Presidential statement.

Public Law 96-206
96th Congress

Joint Resolution

To recognize the Honorable Carl Vinson on the occasion of the christening of the United States Ship Carl Vinson, March 15, 1980.

Mar. 13, 1980
[S.J. Res. 149]

Whereas the nuclear powered aircraft carrier United States Ship Carl Vinson (CVN70) will be christened and launched at Newport News, Virginia, on Saturday, March 15, 1980; and

Whereas Carl Vinson is the first living American to be present at the launching of a United States Navy warship which bears his name, a name that is synonymous with America's preeminent naval power, a name that stands for strength through preparedness; and

Whereas Carl Vinson served as Chairman of the House Armed Services Committee for fourteen years and as Chairman of the old Naval Affairs Committee for sixteen years, during which time he played a major role in developing a national defense posture second to none, believing always in the philosophy that "No man should ever place the defense of his nation below any other priority"; and

Whereas Carl Vinson's record of fifty years continuous service in the House of Representatives remains unsurpassed, reflecting a lifelong commitment to the security, freedom, and prosperity of all Americans; and

Whereas Carl Vinson served his country with distinction, providing enlightened leadership, and demonstrating an incomparable ability as a legislator: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue a proclamation extending best wishes to Carl Vinson on this historic occasion and expressing deep appreciation on behalf of the people of the United States of America for his unswerving devotion to his beloved Nation.

Carl Vinson.
Recognition.

Approved March 13, 1980.

LEGISLATIVE HISTORY:

CONGRESSIONAL RECORD, Vol. 126 (1980):
Mar. 4, considered and passed Senate.
Mar. 6, considered and passed House.

Public Law 96-207
96th Congress

Joint Resolution

Mar. 13, 1980
[H.J. Res. 493]

Providing for the appointment of William G. Bowen as a citizen regent of the Board of Regents of the Smithsonian Institution.

Smithsonian Institution.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the vacancy in the Board of Regents of the Smithsonian Institution, of the class other than Members of Congress, caused by the death of Doctor John Nicholas Brown of Rhode Island on October 9, 1979, be filled by the appointment of William G. Bowen of New Jersey for the statutory term of six years.

Approved March 13, 1980.

LEGISLATIVE HISTORY:

SENATE REPORT No. 96-592 (Comm. on Rules and Administration).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Jan 31, S.J. Res. 137 considered and passed Senate; H.J. Res. 493 considered and passed House.
Mar. 4, H.J. Res. 493 considered and passed Senate.
Mar. 6, Senate vitiated passage of S.J. Res. 137.

Public Law 96-208
96th Congress

Joint Resolution

Providing for the appointment of Carlisle H. Humelsine as a citizen regent of the Board of Regents of the Smithsonian Institution.

Mar. 13, 1980
[H.J. Res. 494]

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the vacancy in the Board of Regents of the Smithsonian Institution, of the class other than Members of Congress, caused by the resignation of Thomas J. Watson, Jr. of Connecticut on October 12, 1979, be filled by the appointment of Carlisle H. Humelsine of Virginia for the statutory term of six years.

Smithsonian Institution.

Approved March 13, 1980.

LEGISLATIVE HISTORY:

SENATE REPORT No. 96-593 (Comm. on Rules and Administration).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Jan. 31, S.J. Res. 138 considered and passed Senate; H.J. Res. 494 considered and passed House.
Mar. 5, H.J. Res. 494 considered and passed Senate.
Mar. 6, Senate vitiated passage of S.J. Res. 138.

79-194 O—81—pt. 1——10 : QL3

Public Law 96-209
96th Congress

An Act

Mar. 14, 1980
[H.R. 4337]

To provide for the transfer of the Foreign Claims Settlement Commission of the United States to the United States Department of Justice as a separate agency in that Department; to provide for the authority and responsibility of the Department of Justice to supply to the Foreign Claims Settlement Commission certain administrative support services without altering the adjudicatory independence of the Commission; to change the terms of office and method of appointment of the members of the Commission; and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the purposes of this Act are as follows:

TITLE I

U.S. Foreign Claims Settlement Commission, transfer to Justice Department.
22 USC 1622a.
22 USC 1622 note.
22 USC 1622b.

SEC. 101. The Foreign Claims Settlement Commission of the United States, established under Reorganization Plan Numbered 1 of 1954, is hereby transferred to the Department of Justice as a separate agency within that Department.

SEC. 102. All functions, powers, and duties of the Foreign Claims Settlement Commission established by Reorganization Plan Numbered 1 of 1954 are hereby transferred with the Commission, together with personnel, assets, liabilities, unexpended balances of appropriations, authorizations, allocations, and other funds held, used, available, or to be made available in connection with the statutory functions of the Commission. The Commission shall continue to perform its functions as provided by the War Claims Act of 1948, as amended, the International Claims Settlement Act of 1949, as amended, and Reorganization Plan Numbered 1 of 1954.

50 USC app. 2001 note.
22 USC 1621 note.

Chairman and members.
22 USC 1622c.

SEC. 103. (a) The Commission shall be composed of a Chairman and two members. The Chairman shall be appointed by the President, by and with the advice and consent of the Senate, to serve on a full-time basis for a term of three years, and compensated at the rate provided for level V of the Executive Schedule under section 5316 of title 5, United States Code.

(b) The other members of the Commission shall be appointed by the President, by and with the advice and consent of the Senate, and serve on a part-time basis, and be compensated on a per diem basis at a rate of compensation equivalent to the daily rate for level V of the Executive Schedule under section 5316 of title 5, United States Code, for each day that such member is employed in the actual performance of official business of the Commission as may be directed by the Chairman. Each member shall be reimbursed for travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5 for persons in Government service employed intermittently.

Terms of office.

(c) The terms of Office of the Chairman and members of the Commission shall be for three years, except the Chairman and members first appointed after the enactment of this subsection shall be appointed to terms ending respectively September 30, 1982,

September 30, 1981, and September 30, 1980. The incumbent of any such office may continue to serve until a successor takes office.

(d) Notwithstanding the provisions of subsections (a), (b), and (c) of this section, members of the Foreign Claims Settlement Commission who are serving on the effective date of this Act, shall continue to serve in their same capacities until the expiration of the terms to which they were appointed.

SEC. 104. The Commission is authorized, in accordance with civil service laws and in accordance with title 5 of the United States Code, to appoint and fix the compensation of such officers and employees as may be necessary to carry out the functions of the Commission. The Commission is authorized to employ experts and consultants in accordance with section 3109 of title 5 of the United States Code, without compensation or at rates of compensation not in excess of the maximum daily rate prescribed for GS-18 under section 5332 of title 5 of the United States Code. Notwithstanding any other provision of law, the Commission is further authorized to employ nationals of other countries who may possess special knowledge, languages, or other expertise necessary to assist the Commission. The Commission is authorized to pay expenses of packing, shipping, and storing personal effects of personnel of the Commission assigned abroad, and to pay allowances and benefits similar to those provided by title IX of the Foreign Service Act of 1946, as amended. The Commission is authorized, with the consent of the head of any other department or agency of the Federal Government, to utilize the facilities and services of such department or agency in carrying out the functions of the Commission. Officers and employees of any department and agency of the Federal Government may, with the consent of the head of such department or agency, be assigned to assist the Commission in carrying out its functions. The Commission shall reimburse such department and agency for the pay of such officers or employees.

22 USC 1622d.

Experts and consultants.

5 USC 5332 note.

22 USC 1131.

SEC. 105. All functions, powers, and duties not directly related to adjudicating claims are hereby vested in the Chairman, including the functions set forth in section 3 of Reorganization Plan Numbered 1 of 1954 and the authority to issue rules and regulations.

22 USC 1622e.

SEC. 106. The Attorney General shall provide necessary administrative support and services to the Commission. The Chairman shall prepare the budget requests, authorization documents, and legislative proposals for the Commission within the procedures established by the Department of Justice, and the Attorney General shall submit these items to the Director of the Office of Management and Budget as proposed by the Chairman.

22 USC 1622 note.

22 USC 1622f.

Budget requests, submittal to Director of OMB.

SEC. 107. Nothing in this Act shall be construed to diminish the independence of the Commission in making its determinations on claims in programs that it is authorized to administer pursuant to the powers and responsibilities conferred upon the Commission by the War Claims Act of 1948, as amended, the International Claims Settlement Act of 1949, as amended, and Reorganization Plan Numbered 1 of 1954. The decisions of the Commission with respect to claims shall be final and conclusive on all questions of law and fact, and shall not be subject to review by the Attorney General or any other official of the United States or by any court by mandamus or otherwise.

Restriction.

22 USC 1622g.

50 USC app. 2001 note.

22 USC 1621 note.

22 USC 1622 note.

SEC. 108. Subsection 2(d) of the War Claims Act of 1948, as amended by section 104 of the Act of October 22, 1962 (76 Stat. 1107), is hereby repealed.

Repeal.

50 USC app. 2001.

SEC. 109. Section 5316 of title 5 of the United States Code is amended—

(1) by striking out paragraph (31) and inserting in lieu thereof: "(31) Chairman, Foreign Claims Settlement Commission of the United States, Department of Justice."; and
(2) by striking out paragraph (90) of said section.

TITLE II—ANNUAL ASSAY COMMISSION

Abolition.
31 USC 363 note.

Transfer of functions.

The Annual Assay Commission, and the positions of Assay Commissioners established by section 3547 of the Revised Statutes of the United States (31 U.S.C. 363), as amended, are hereby abolished. The functions of that Commission and of the Assay Commissioners are hereby transferred to the Secretary of the Treasury.

TITLE III—UNITED STATES MARINE CORPS MEMORIAL COMMISSION

Abolition.

The United States Marine Corps Memorial Commission, established by Act of August 4, 1947 (61 Stat. 724), is hereby abolished.

TITLE IV—THE LOW-EMISSION VEHICLE CERTIFICATION BOARD

Abolition.
42 USC 7546 note.

The Low-Emission Vehicle Certification Board established by Act of December 31, 1970 (84 Stat. 1700; 42 U.S.C. 1857f-6e), is hereby abolished.

TITLE V—DETERMINATION ORDER

22 USC 1622a note.

The Director of the Office of Management and Budget is authorized and directed to make such determinations as may be necessary with regard to the transfer of functions, powers, and duties pursuant to this Act, and to make such additional incidental dispositions of personnel, assets, liabilities, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to or to be made available in connnection with the functions transferred by this Act, as the

Director may deem necessary to accomplish the purposes of this Act. The Director is further authorized and directed to provide for terminating the affairs of each agency, board, or commission abolished by this Act.

TITLE VI

This Act shall take effect on the date of enactment.

Effective date. 22 USC 1622a note.

Approved March 14, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-407 (Comm. on Government Operations).
SENATE REPORT No. 96-509 accompanying S. 1419 (Comm. on Government Affairs).
CONGRESSIONAL RECORD:
Vol. 125 (1979): Sept. 17, considered and passed House.
Dec. 20, S. 1419 considered and passed Senate.
Vol. 126 (1980): Feb. 26, Senate vitiated passage of S. 1419; H.R. 4337, amended, passed in lieu.
Feb. 28, House concurred in Senate amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:
Vol. 16, No. 11 (1980): Mar. 14, Presidential statement.

Public Law 96-210
96th Congress

An Act

Mar. 17, 1980
[H.R. 5913]

To amend section 502(a) of the Merchant Marine Act, 1936.

Merchant Marine Act, 1936, amendment.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, **That the third sentence of section 502(a) of the Merchant Marine Act, 1936 (46 U.S.C. 1152(a)), is amended by striking the words ", at any time prior to June 30, 1979,".**

Approved March 17, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-739 (Comm. on Merchant Marine and Fisheries).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Feb. 11, 12, considered and passed House.
Mar. 5, considered and passed Senate.

Public Law 96-211
96th Congress

An Act

To authorize the President of the United States to present on behalf of the Congress a specially struck gold medal to Simon Wiesenthal.

Mar. 17, 1980
[S. 1792]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the President of the United States is authorized to present, on behalf of the Congress, to Simon Wiesenthal, a gold medal of appropriate design in recognition of his contribution to international justice through the documentation and location of war criminals from World War II. For such purpose, the Secretary of the Treasury is authorized and directed to cause to be struck a gold medal with suitable emblems, devices, and inscriptions to be determined by the Secretary of the Treasury. There is authorized to be appropriated not to exceed $15,000 after October 1, 1980, to carry out the provisions of this subsection.

Simon Wiesenthal.
Commemorative medal.

Appropriation authorization.

(b) The Secretary of the Treasury may cause duplicates in bronze of such medal to be coined and sold under such regulations as he may prescribe, at a price sufficient to cover the cost thereof, including labor, materials, dies, use of machinery, overhead expenses, and the gold medal. The appropriation made to carry out the provisions of subsection (a) shall be reimbursed out of the proceeds of such sales.

Duplicates.

(c) The medals provided for in this Act are national medals for the purpose of section 3551 of the Revised Statutes (31 U.S.C. 368).

Approved March 17, 1980.

LEGISLATIVE HISTORY:

SENATE REPORT No. 96-435 (Comm. on Banking, Housing, and Urban Affairs).
CONGRESSIONAL RECORD:
Vol. 125 (1979): Nov. 30, considered and passed Senate.
Vol. 126 (1980): Mar. 3, H.R. 5548 considered and passed House; passage vacated and S. 1792 passed in lieu.

Public Law 96-212
96th Congress

An Act

Mar. 17, 1980
[S. 643]

To amend the Immigration and Nationality Act to revise the procedures for the admission of refugees, to amend the Migration and Refugee Assistance Act of 1962 to establish a more uniform basis for the provision of assistance to refugees, and for other purposes.

Refugee Act of 1980.
8 USC 1101 note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Refugee Act of 1980".

TITLE I—PURPOSE

8 USC 1521 note.

SEC. 101. (a) The Congress declares that it is the historic policy of the United States to respond to the urgent needs of persons subject to persecution in their homelands, including, where appropriate, humanitarian assistance for their care and maintenance in asylum areas, efforts to promote opportunities for resettlement or voluntary repatriation, aid for necessary transportation and processing, admission to this country of refugees of special humanitarian concern to the United States, and transitional assistance to refugees in the United States. The Congress further declares that it is the policy of the United States to encourage all nations to provide assistance and resettlement opportunities to refugees to the fullest extent possible.

(b) The objectives of this Act are to provide a permanent and systematic procedure for the admission to this country of refugees of special humanitarian concern to the United States, and to provide comprehensive and uniform provisions for the effective resettlement and absorption of those refugees who are admitted.

TITLE II—ADMISSION OF REFUGEES

SEC. 201. (a) Section 101(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)) is amended by adding after paragraph (41) the following new paragraph:

"Refugee."

"(42) The term 'refugee' means (A) any person who is outside any country of such person's nationality or, in the case of a person having no nationality, is outside any country in which such person last habitually resided, and who is unable or unwilling to return to, and is unable or unwilling to avail himself or herself of the protection of, that country because of persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion, or (B) in such special circumstances as the President after appropriate consultation (as defined in section 207(e) of this Act) may specify, any person who is within the country of such person's nationality or, in the case of a person having no nationality, within the country in which such person is habitually residing, and who is persecuted or who has a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion. The term 'refugee' does not include any person who ordered, incited, assisted, or otherwise participated in the persecution of any person on

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account of race, religion, nationality, membership in a particular social group, or political opinion.".

(b) Chapter 1 of title II of such Act is amended by adding after section 206 (8 U.S.C. 1156) the following new sections:

"ANNUAL ADMISSION OF REFUGEES AND ADMISSION OF EMERGENCY SITUATION REFUGEES

"SEC. 207. (a)(1) Except as provided in subsection (b), the number of refugees who may be admitted under this section in fiscal year 1980, 1981, or 1982, may not exceed fifty thousand unless the President determines, before the beginning of the fiscal year and after appropriate consultation (as defined in subsection (e)), that admission of a specific number of refugees in excess of such number is justified by humanitarian concerns or is otherwise in the national interest. Entry, numerical limitations. 8 USC 1157.

"(2) Except as provided in subsection (b), the number of refugees who may be admitted under this section in any fiscal year after fiscal year 1982 shall be such number as the President determines, before the beginning of the fiscal year and after appropriate consultation, is justified by humanitarian concerns or is otherwise in the national interest.

"(3) Admissions under this subsection shall be allocated among refugees of special humanitarian concern to the United States in accordance with a determination made by the President after appropriate consultation.

"(b) If the President determines, after appropriate consultation, that (1) an unforeseen emergency refugee situation exists, (2) the admission of certain refugees in response to the emergency refugee situation is justified by grave humanitarian concerns or is otherwise in the national interest, and (3) the admission to the United States of these refugees cannot be accomplished under subsection (a), the President may fix a number of refugees to be admitted to the United States during the succeeding period (not to exceed twelve months) in response to the emergency refugee situation and such admissions shall be allocated among refugees of special humanitarian concern to the United States in accordance with a determination made by the President after the appropriate consultation provided under this subsection. Emergency conditions.

"(c)(1) Subject to the numerical limitations established pursuant to subsections (a) and (b), the Attorney General may, in the Attorney General's discretion and pursuant to such regulations as the Attorney General may prescribe, admit any refugee who is not firmly resettled in any foreign country, is determined to be of special humanitarian concern to the United States, and is admissible (except as otherwise provided under paragraph (3)) as an immigrant under this Act. Attorney General's authority.

"(2) A spouse or child (as defined in section 101(b)(1) (A), (B), (C), (D), or (E)) of any refugee who qualifies for admission under paragraph (1) shall, if not otherwise entitled to admission under paragraph (1) and if not a person described in the second sentence of section 101(a)(42), be entitled to the same admission status as such refugee if accompanying, or following to join, such refugee and if the spouse or child is admissible (except as otherwise provided under paragraph (3)) as an immigrant under this Act. Upon the spouse's or child's admission to the United States, such admission shall be charged against the numerical limitation established in accordance with the appropriate subsection under which the refugee's admission is charged. Spouse or child, admission status. 8 USC 1101. *Ante*, p. 102.

Waiver.
8 USC 1182.

"(3) The provisions of paragraphs (14), (15), (20), (21), (25), and (32) of section 212(a) shall not be applicable to any alien seeking admission to the United States under this subsection, and the Attorney General may waive any other provision of such section (other than paragraph (27), (29), or (33) and other than so much of paragraph (23) as relates to trafficking in narcotics) with respect to such an alien for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest. Any such waiver by the Attorney General shall be in writing and shall be granted only on an individual basis following an investigation. The Attorney General shall provide for the annual reporting to Congress of the number of waivers granted under this paragraph in the previous fiscal year and a summary of the reasons for granting such waivers.

Report to Congress.

"(4) The refugee status of any alien (and of the spouse or child of the alien) may be terminated by the Attorney General pursuant to such regulations as the Attorney General may prescribe if the Attorney General determines that the alien was not in fact a refugee within the meaning of section 101(a)(42) at the time of the alien's admission.

Ante, p. 102.

"(d)(1) Before the start of each fiscal year the President shall report to the Committees on the Judiciary of the House of Representatives and of the Senate regarding the foreseeable number of refugees who will be in need of resettlement during the fiscal year and the anticipated allocation of refugee admissions during the fiscal year. The President shall provide for periodic discussions between designated representatives of the President and members of such committees regarding changes in the worldwide refugee situation, the progress of refugee admissions, and the possible need for adjustments in the allocation of admissions among refugees.

Report to congressional committees.

Consultation, publication in Congressional Record.

"(2) As soon as possible after representatives of the President initiate appropriate consultation with respect to the number of refugee admissions under subsection (a) or with respect to the admission of refugees in response to an emergency refugee situation under subsection (b), the Committees on the Judiciary of the House of Representatives and of the Senate shall cause to have printed in the Congressional Record the substance of such consultation.

Proposed determination, review hearing.

"(3)(A) After the President initiates appropriate consultation prior to making a determination under subsection (a), a hearing to review the proposed determination shall be held unless public disclosure of the details of the proposal would jeopardize the lives or safety of individuals.

"(B) After the President initiates appropriate consultation prior to making a determination, under subsection (b), that the number of refugee admissions should be increased because of an unforeseen emergency refugee situation, to the extent that time and the nature of the emergency refugee situation permit, a hearing to review the proposal to increase refugee admissions shall be held unless public disclosure of the details of the proposal would jeopardize the lives or safety of individuals.

"Appropriate consultation."

"(e) For purposes of this section, the term 'appropriate consultation' means, with respect to the admission of refugees and allocation of refugee admissions, discussions in person by designated Cabinet-level representatives of the President with members of the Committees on the Judiciary of the Senate and of the House of Representatives to review the refugee situation or emergency refugee situation, to project the extent of possible participation of the United States therein, to discuss the reasons for believing that the proposed admission of refugees is justified by humanitarian concerns or grave

humanitarian concerns or is otherwise in the national interest, and to provide such members with the following information:

"(1) A description of the nature of the refugee situation.

"(2) A description of the number and allocation of the refugees to be admitted and an analysis of conditions within the countries from which they came.

"(3) A description of the proposed plans for their movement and resettlement and the estimated cost of their movement and resettlement.

"(4) An analysis of the anticipated social, economic, and demographic impact of their admission to the United States.

"(5) A description of the extent to which other countries will admit and assist in the resettlement of such refugees.

"(6) An analysis of the impact of the participation of the United States in the resettlement of such refugees on the foreign policy interests of the United States.

"(7) Such additional information as may be appropriate or requested by such members.

To the extent possible, information described in this subsection shall be provided at least two weeks in advance of discussions in person by designated representatives of the President with such members.

"ASYLUM PROCEDURE

"SEC. 208. (a) The Attorney General shall establish a procedure for an alien physically present in the United States or at a land border or port of entry, irrespective of such alien's status, to apply for asylum, and the alien may be granted asylum in the discretion of the Attorney General if the Attorney General determines that such alien is a refugee within the meaning of section 101(a)(42)(A). 8 USC 1158.

Ante, p. 102.

"(b) Asylum granted under subsection (a) may be terminated if the Attorney General, pursuant to such regulations as the Attorney General may prescribe, determines that the alien is no longer a refugee within the meaning of section 101(a)(42)(A) owing to a change in circumstances in the alien's country of nationality or, in the case of an alien having no nationality, in the country in which the alien last habitually resided. Termination.

"(c) A spouse or child (as defined in section 101(b)(1) (A), (B), (C), (D), or (E)) of an alien who is granted asylum under subsection (a) may, if not otherwise eligible for asylum under such subsection, be granted the same status as the alien if accompanying, or following to join, such alien. Spouse or child, status. 8 USC 1101.

"ADJUSTMENT OF STATUS OF REFUGEES

"SEC. 209. (a)(1) Any alien who has been admitted to the United States under section 207— 8 USC 1159.

Ante, p. 103.

"(A) whose admission has not been terminated by the Attorney General pursuant to such regulations as the Attorney General may prescribe,

"(B) who has been physically present in the United States for at least one year, and

"(C) who has not acquired permanent resident status,

shall, at the end of such year period, return or be returned to the custody of the Service for inspection and examination for admission to the United States as an immigrant in accordance with the provisions of sections 235, 236, and 237. 8 USC 1225, 1226, 1227.

Permanent residence, admission conditions.

"(2) Any alien who is found upon inspection and examination by an immigration officer pursuant to paragraph (1) or after a hearing before a special inquiry officer to be admissible (except as otherwise provided under subsection (c)) as an immigrant under this Act at the time of the alien's inspection and examination shall, notwithstanding any numerical limitation specified in this Act, be regarded as lawfully admitted to the United States for permanent residence as of the date of such alien's arrival into the United States.

"(b) Not more than five thousand of the refugee admissions authorized under section 207(a) in any fiscal year may be made available by the Attorney General, in the Attorney General's discretion and under such regulations as the Attorney General may prescribe, to adjust to the status of an alien lawfully admitted for permanent residence the status of any alien granted asylum who—

Ante, p. 103.

"(1) applies for such adjustment,

"(2) has been physically present in the United States for at least one year after being granted asylum,

"(3) continues to be a refugee within the meaning of section 101(a)(42)(A) or a spouse or child of such a refugee,

"(4) is not firmly resettled in any foreign country, and

"(5) is admissible (except as otherwise provided under subsection (c)) as an immigrant under this Act at the time of examination for adjustment of such alien.

Alien's admission record.

Upon approval of an application under this subsection, the Attorney General shall establish a record of the alien's admission for lawful permanent residence as of the date one year before the date of the approval of the application.

8 USC 1182.

"(c) The provisions of paragraphs (14), (15), (20), (21), (25), and (32) of section 212(a) shall not be applicable to any alien seeking adjustment of status under this section, and the Attorney General may waive any other provision of such section (other than paragraph (27), (29), or (33) and other than so much of paragraph (23) as relates to trafficking in narcotics) with respect to such an alien for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest.".

(c) The table of contents of such Act is amended by inserting after the item relating to section 206 the following new items:

"Sec. 207. Annual admission of refugees and admission of emergency situation refugees.
"Sec. 208. Asylum procedure.
"Sec. 209. Adjustment of status of refugees.".

SEC. 202. Section 211 of the Immigration and Nationality Act (8 U.S.C. 1181) is amended—

(1) by inserting "and subsection (c)" in subsection (a) after "Except as provided in subsection (b)"; and

(2) by adding at the end thereof the following new subsection:

"(c) The provisions of subsection (a) shall not apply to an alien whom the Attorney General admits to the United States under section 207.".

SEC. 203. (a) Subsection (a) of section 201 of the Immigration and Nationality Act (8 U.S.C. 1151) is amended to read as follows:

8 USC 1101.

"(a) Exclusive of special immigrants defined in section 101(a)(27), immediate relatives specified in subsection (b) of this section, and aliens who are admitted or granted asylum under section 207 or 208, the number of aliens born in any foreign state or dependent area who may be issued immigrant visas or who may otherwise acquire the status of an alien lawfully admitted to the United States for permanent residence, shall not in any of the first three quarters of any fiscal

Ante, p. 105.

year exceed a total of seventy-two thousand and shall not in any fiscal year exceed two hundred and seventy thousand.".

(b) Section 202 of such Act (8 U.S.C. 1152) is amended—

(1) by striking out "and the number of conditional entries" in subsection (a);

(2) by striking out "(8)" in subsection (a) and inserting in lieu thereof "(7)";

(3) by striking out "or conditional entries" and "and conditional entries" in subsection (e);

(4) by striking out "20 per centum" in subsection (e)(2) and inserting in lieu thereof "26 per centum";

(5) by striking out paragraph (7) of subsection (e);

(6) by striking out "(7)" in paragraph (8) of subsection (e) and inserting in lieu thereof "(6)"; and

(7) by redesignating paragraph (8) of subsection (e) as paragraph (7).

(c) Section 203 of such Act (8 U.S.C. 1153) is amended—

(1) by striking out "or their conditional entry authorized, as the case may be," in subsection (a);

(2) by striking out "20 per centum" in subsection (a)(2) and inserting in lieu thereof "26 per centum";

(3) by striking out paragraph (7) of subsection (a);

(4) by striking out "and less the number of conditional entries and visas available pursuant to paragraph (7)" in subsection (a)(8);

(5) by striking out "or to conditional entry under paragraphs (1) through (8)" in subsection (a)(9) and inserting in lieu thereof "under paragraphs (1) through (7)";

(6) by redesignating paragraphs (8) and (9) of subsection (a) as paragraphs (7) and (8), respectively;

(7) by striking out "(7)" in subsection (d) and inserting in lieu thereof "(6)"; and

(8) by striking out subsections (f), (g), and (h).

(d) Sections 212(a)(14), 212(a)(32), and 244(d) of such Act (8 U.S.C. 1182(a)(14), 1182(a)(32), 1254(d)) are each amended by striking out "section 203(a)(8)" and inserting in lieu thereof "section 203(a)(7)".

(e) Subsection (h) of section 243 of such Act (8 U.S.C. 1253) is amended to read as follows:

"(h)(1) The Attorney General shall not deport or return any alien (other than an alien described in section 241(a)(19)) to a country if the Attorney General determines that such alien's life or freedom would be threatened in such country on account of race, religion, nationality, membership in a particular social group, or political opinion. Deportation. 8 USC 1251.

"(2) Paragraph (1) shall not apply to any alien if the Attorney General determines that—

"(A) the alien ordered, incited, assisted, or otherwise participated in the persecution of any person on account of race, religion, nationality, membership in a particular social group, or political opinion;

"(B) the alien, having been convicted by a final judgment of a particularly serious crime, constitutes a danger to the community of the United States;

"(C) there are serious reasons for considering that the alien has committed a serious nonpolitical crime outside the United States prior to the arrival of the alien in the United States; or

"(D) there are reasonable grounds for regarding the alien as a danger to the security of the United States.".

(f) Section 212(d)(5) of such Act (8 U.S.C. 1182(d)(5)) is amended—

(1) by inserting "(A)" after "(5)";

(2) by inserting ", except as provided in subparagraph (B)," after "Attorney General may"; and

(3) by adding at the end thereof the following new subparagraph:

Parole into United States.

"(B) The Attorney General may not parole into the United States an alien who is a refugee unless the Attorney General determines that compelling reasons in the public interest with respect to that particular alien require that the alien be paroled into the United States rather than be admitted as a refugee under section 207.".

Ante, p. 103.

(g) Section 5 of Public Law 95-412 (8 U.S.C. 1182 note) is amended by striking out "September 30, 1980" and inserting in lieu thereof "April 1, 1980".

8 USC 1153 note.

(h) Any reference in any law (other than the Immigration and Nationality Act or this Act) in effect on April 1, 1980, to section 203(a)(7) of the Immigration and Nationality Act shall be deemed to be a reference to such section as in effect before such date and to sections 207 and 208 of the Immigration and Nationality Act.

8 USC 1101 note.
8 USC 1153.
Ante, p. 105.

(i) Section 203(g) of such Act (8 U.S.C. 1153(g)), section 101(a)(3) of Public Law 95-145, and the first section of Public Law 89-732 are each amended by striking out "two years" and inserting in lieu thereof "one year".

8 USC 1255 note.

Effective date.

SEC. 204. (a) Except as provided in subsections (b) and (c), this title and the amendments made by this title shall take effect on the date of the enactment of this Act, and shall apply to fiscal years beginning with the fiscal year beginning October 1, 1979.

8 USC 1101 note.

Ante, p. 102.
Ante, p. 106.

(b)(1)(A) Section 207(c) of the Immigration and Nationality Act (as added by section 201(b) of this Act) and the amendments made by subsections (b), (c), and (d) of section 203 of this Act shall take effect on April 1, 1980.

(B) The amendments made by section 203(f) shall apply to aliens paroled into the United States on or after the sixtieth day after the date of the enactment of this Act.

(C) The amendments made by section 203(i) shall take effect immediately before April 1, 1980.

Ante, p. 105.

(2) Notwithstanding sections 207(a) and 209(b) of the Immigration and Nationality Act (as added by section 201(b) of this Act), the fifty thousand and five thousand numerical limitations specified in such respective sections shall, for fiscal year 1980, be equal to 25,000 and 2,500, respectively.

(3) Notwithstanding any other provision of law, for fiscal year 1980—

8 USC 1151.

(A) the fiscal year numerical limitation specified in section 201(a) of the Immigration and Nationality Act shall be equal to 280,000, and

8 USC 1153, 1152.

(B) for the purpose of determining the number of immigrant visas and adjustments of status which may be made available under sections 203(a)(2) and 202(e)(2) of such Act, the granting of a conditional entry or adjustment of status under section 203(a)(7) or 202(e)(7) of such Act after September 30, 1979, and before April 1, 1980, shall be considered to be the granting of an immigrant visa under section 203(a)(2) or 202(e)(2), respectively, of such Act during such period.

Conditional entrant status.

Ante, p. 107.

(c)(1) The repeal of subsections (g) and (h) of section 203 of the Immigration and Nationality Act, made by section 203(c)(8) of this title, shall not apply with respect to any individual who before April 1, 1980, was granted a conditional entry under section 203(a)(7) of the Immigration and Nationality Act (and under section 202(e)(7) of such

Act, if applicable), as in effect immediately before such date, and it shall not apply to any alien paroled into the United States before April 1, 1980, who is eligible for the benefits of section 5 of Public Law 95-412.

8 USC 1182 note.

(2) An alien who, before April 1, 1980, established a date of registration at an immigration office in a foreign country on the basis of entitlement to a conditional entrant status under section 203(a)(7) of the Immigration and Nationality Act (as in effect before such date), shall be deemed to be entitled to refugee status under section 207 of such Act (as added by section 201(b) of this title) and shall be accorded the date of registration previously established by that alien. Nothing in this paragraph shall be construed to preclude the acquisition by such an alien of a preference status under section 203(a) of such Act.

Registration date.

8 USC 1153.

Ante, p. 102.

(3) The provisions of paragraphs (14), (15), (20), (21), (25), and (32) of section 212(a) of the Immigration and Nationality Act shall not be applicable to any alien who has entered the United States before April 1, 1980, pursuant to section 203(a)(7) of such Act or who has been paroled as a refugee into the United States under section 212(d)(5) of such Act, and who is seeking adjustment of status, and the Attorney General may waive any other provision of section 212(a) of such Act (other than paragraph (27), (29), or (33) and other than so much of paragraph (23) as relates to trafficking in narcotics) with respect to such an alien for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest.

Waiver.

8 USC 1182.

(d)(1) Notwithstanding section 207(a) of the Immigration and Nationality Act (as added by section 201(b) of this title), the President may make the determination described in the first sentence of such section not later than forty-five days after the date of the enactment of this Act for fiscal year 1980.

Determination, deadline.

8 USC 1157 note.

(2) The Attorney General shall establish the asylum procedure referred to in section 208(a) of the Immigration and Nationality Act (as added by section 201(b) of this title) not later than June 1, 1980.

Asylum procedure, deadline.

8 USC 1158 note.

(e) Any reference in this Act or in chapter 2 of title IV of the Immigration and Nationality Act to the Secretary of Education or the Secretary of Health and Human Services or to the Department of Health and Human Services shall be deemed, before the effective date of the Department of Education Organization Act, to be a reference to the Secretary of Health, Education, and Welfare or to the Department of Health, Education, and Welfare, respectively.

Ante, p. 105.

8 USC 1521 note.

93 Stat. 668.

20 USC 3401 note.

TITLE III—UNITED STATES COORDINATOR FOR REFUGEE AFFAIRS AND ASSISTANCE FOR EFFECTIVE RESETTLEMENT OF REFUGEES IN THE UNITED STATES

PART A—UNITED STATES COORDINATOR FOR REFUGEE AFFAIRS

SEC. 301. (a) The President shall appoint, by and with the advice and consent of the Senate, a United States Coordinator for Refugee Affairs (hereinafter in this part referred to as the "Coordinator"). The Coordinator shall have the rank of Ambassador-at-Large.

Presidential appointment.

8 USC 1525.

(b) The Coordinator shall be responsible to the President for—

(1) the development of overall United States refugee admission and resettlement policy;

(2) the coordination of all United States domestic and international refugee admission and resettlement programs in a manner that assures that policy objectives are met in a timely fashion;

(3) the design of an overall budget strategy to provide individual agencies with policy guidance on refugee matters in

the preparation of their budget requests, and to provide the Office of Management and Budget with an overview of all refugee-related budget requests;

(4) the presentation to the Congress of the Administration's overall refugee policy and the relationship of individual agency refugee budgets to that overall policy;

(5) advising the President, Secretary of State, Attorney General, and the Secretary of Health and Human Services on the relationship of overall United States refugee policy to the admission of refugees to, and the resettlement of refugees in, the United States;

(6) under the direction of the Secretary of State, representation and negotiation on behalf of the United States with foreign governments and international organizations in discussions on refugee matters and, when appropriate, submitting refugee issues for inclusion in other international negotiations;

(7) development of an effective and responsive liaison between the Federal Government and voluntary organizations, Governors and mayors, and others involved in refugee relief and resettlement work to reflect overall United States Government policy;

Recommendations to President and Congress.

(8) making recommendations to the President and to the Congress with respect to policies for, objectives of, and establishment of priorities for, Federal functions relating to refugee admission and resettlement in the United States; and

(9) reviewing the regulations, guidelines, requirements, criteria, and procedures of Federal departments and agencies applicable to the performance of functions relating to refugee admission and resettlement in the United States.

Consultation.

(c)(1) In the conduct of the Coordinator's duties, the Coordinator shall consult regularly with States, localities, and private nonprofit voluntary agencies concerning the sponsorship process and the intended distribution of refugees.

Reports to coordinator.

(2) The Secretary of Labor and the Secretary of Education shall provide the Coordinator with regular reports describing the efforts of their respective departments to increase refugee access to programs within their jurisdiction, and the Coordinator shall include information on such programs in reports submitted under section 413(a)(1) of the Immigration and Nationality Act.

Post, p. 115.

PART B—ASSISTANCE FOR EFFECTIVE RESETTLEMENT OF REFUGEES IN THE UNITED STATES

SEC. 311. (a) Title IV of the Immigration and Nationality Act is amended—

(1) by striking out the title heading and inserting in lieu thereof the following:

"TITLE IV—MISCELLANEOUS AND REFUGEE ASSISTANCE

"CHAPTER 1—MISCELLANEOUS"; and

(2) by adding at the end thereof the following new chapter:

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"CHAPTER 2—REFUGEE ASSISTANCE

"OFFICE OF REFUGEE RESETTLEMENT

"SEC. 411. (a) There is established, within the Department of Health and Human Services, an office to be known as the Office of Refugee Resettlement (hereinafter in this chapter referred to as the 'Office'). The head of the Office shall be a Director (hereinafter in this chapter referred to as the 'Director'), to be appointed by the Secretary of Health and Human Services (hereinafter in this chapter referred to as the 'Secretary'). Establishment. 8 USC 1521. Director.

"(b) The function of the Office and its Director is to fund and administer (directly or through arrangements with other Federal agencies), in consultation with and under the general policy guidance of the United States Coordinator for Refugee Affairs (hereinafter in this chapter referred to as the 'Coordinator'), programs of the Federal Government under this chapter. Functions.

"AUTHORIZATION FOR PROGRAMS FOR DOMESTIC RESETTLEMENT OF AND ASSISTANCE TO REFUGEES

"SEC. 412. (a) CONDITIONS AND CONSIDERATIONS.—(1) In providing assistance under this section, the Director shall, to the extent of available appropriations, (A) make available sufficient resources for employment training and placement in order to achieve economic self-sufficiency among refugees as quickly as possible, (B) provide refugees with the opportunity to acquire sufficient English language training to enable them to become effectively resettled as quickly as possible, (C) insure that cash assistance is made available to refugees in such a manner as not to discourage their economic self-sufficiency, in accordance with subsection (e)(2), and (D) insure that women have the same opportunities as men to participate in training and instruction. 8 USC 1522.

"(2) The Director, together with the Coordinator, shall consult regularly with State and local governments and private nonprofit voluntary agencies concerning the sponsorship process and the intended distribution of refugees among the States and localities. Consultation.

"(3) In the provision of domestic assistance under this section, the Director shall make a periodic assessment, based on refugee population and other relevant factors, of the relative needs of refugees for assistance and services under this chapter and the resources available to meet such needs. In allocating resources, the Director shall avoid duplication of services and provide for maximum coordination between agencies providing related services. Domestic assistance, periodic assessment.

"(4) No grant or contract may be awarded under this section unless an appropriate proposal and application (including a description of the agency's ability to perform the services specified in the proposal) are submitted to, and approved by, the appropriate administering official. Grants and contracts under this section shall be made to those agencies which the appropriate administering official determines can best perform the services. Payments may be made for activities authorized under this chapter in advance or by way of reimbursement. In carrying out this section, the Director, the Secretary of State, and any such other appropriate administering official are authorized— Grants and contracts.

"(A) to make loans, and

"(B) to accept and use money, funds, property, and services of any kind made available by gift, devise, bequest, grant, or otherwise for the purpose of carrying out this section.

"(5) Assistance and services funded under this section shall be provided to refugees without regard to race, religion, nationality, sex, or political opinion.

Assistance, conditions.

"(6) As a condition for receiving assistance under this section, a State must—

"(A) submit to the Director a plan which provides—

"(i) a description of how the State intends to encourage effective refugee resettlement and to promote economic self-sufficiency as quickly as possible,

"(ii) a description of how the State will insure that language training and employment services are made available to refugees receiving cash assistance,

"(iii) for the designation of an individual, employed by the State, who will be responsible for insuring coordination of public and private resources in refugee resettlement,

"(iv) for the care and supervision of and legal responsibility for unaccompanied refugee children in the State, and

"(v) for the identification of refugees who at the time of resettlement in the State are determined to have medical conditions requiring, or medical histories indicating a need for, treatment or observation and such monitoring of such treatment or observation as may be necessary;

"(B) meet standards, goals, and priorities, developed by the Director, which assure the effective resettlement of refugees and which promote their economic self-sufficiency as quickly as possible and the efficient provision of services; and

Report.

"(C) submit to the Director, within a reasonable period of time after the end of each fiscal year, a report on the uses of funds provided under this chapter which the State is responsible for administering.

Assistance monitoring system, development.

"(7) The Secretary, together with the Secretary of State with respect to assistance provided by the Secretary of State under subsection (b), shall develop a system of monitoring the assistance provided under this section. This system shall include—

"(A) evaluations of the effectiveness of the programs funded under this section and the performance of States, grantees, and contractors;

"(B) financial auditing and other appropriate monitoring to detect any fraud, abuse, or mismanagement in the operation of such programs; and

"(C) data collection on the services provided and the results achieved.

Application information.

"(8) The Attorney General shall provide the Director with information supplied by refugees in conjunction with their applications to the Attorney General for adjustment of status, and the Director shall compile, summarize, and evaluate such information.

"(9) The Secretary and the Secretary of State may issue such regulations as each deems appropriate to carry out this chapter.

"Refugee." *Ante*, p. 103.

"(10) For purposes of this chapter, the term 'refugee' includes any alien described in section 207(c)(2).

Grants and contracts.

"(b) PROGRAM OF INITIAL RESETTLEMENT.—(1)(A) For—

"(i) fiscal years 1980 and 1981, the Secretary of State is authorized, and

(ii) fiscal year 1982 and succeeding fiscal years, the Director (except as provided in subparagraph (B)) is authorized,

to make grants to, and contracts with, public or private nonprofit agencies for initial resettlement (including initial reception and placement with sponsors) of refugees in the United States. Grants to, or contracts with, private nonprofit voluntary agencies under this paragraph shall be made consistent with the objectives of this chapter, taking into account the different resettlement approaches and practices of such agencies. Resettlement assistance under this paragraph shall be provided in coordination with the Director's provision of other assistance under this chapter. The Secretary of State and the Director shall jointly monitor the assistance provided during fiscal years 1980 and 1981 under this paragraph.

"(B) The President shall provide for a study of which agency is best able to administer the program under this paragraph and shall report, not later than March 1, 1981, to the Congress on such study. If the President determines after such study that the Director should not administer the program under this paragraph, the authority of the Director under the first sentence of subparagraph (A) shall be exercised by such officer as the President shall from time to time specify.

Study, report to Congress.

"(2) The Director is authorized to develop programs for such orientation, instruction in English, and job training for refugees, and such other education and training of refugees, as facilitates their resettlement in the United States. The Director is authorized to implement such programs, in accordance with the provisions of this section, with respect to refugees in the United States. The Secretary of State is authorized to implement such programs with respect to refugees awaiting entry into the United States.

Orientation, education, and job training programs.

"(3) The Secretary is authorized, in consultation with the Coordinator, to make arrangements (including cooperative arrangements with other Federal agencies) for the temporary care of refugees in the United States in emergency circumstances, including the establishment of processing centers, if necessary, without regard to such provisions of law (other than the Renegotiation Act of 1951 and section 414(b) of this chapter) regulating the making, performance, amendment, or modification of contracts and the expenditure of funds of the United States Government as the Secretary may specify.

Refugee temporary care.

50 USC app. 1211 note.

"(4) The Secretary, in consultation with the Coordinator, shall—

"(A) assure that an adequate number of trained staff are available at the location at which the refugees enter the United States to assure that all necessary medical records are available and in proper order;

"(B) provide for the identification of refugees who have been determined to have medical conditions affecting the public health and requiring treatment;

"(C) assure that State or local health officials at the resettlement destination within the United States of each refugee are promptly notified of the refugee's arrival and provided with all applicable medical records; and

"(D) provide for such monitoring of refugees identified under subparagraph (B) as will insure that they receive appropriate and timely treatment.

Medical screening and care.

The Secretary shall develop and implement methods for monitoring and assessing the quality of medical screening and related health services provided to refugees awaiting resettlement in the United States.

"(c) PROJECT GRANTS AND CONTRACTS FOR SERVICES FOR REFUGEES.—The Director is authorized to make grants to, and enter into

contracts with, public or private nonprofit agencies for projects specifically designed—

"(1) to assist refugees in obtaining the skills which are necessary for economic self-sufficiency, including projects for job training, employment services, day care, professional refresher training, and other recertification services;

"(2) to provide training in English where necessary (regardless of whether the refugees are employed or receiving cash or other assistance); and

"(3) to provide where specific needs have been shown and recognized by the Director, health (including mental health) services, social services, educational and other services.

"(d) ASSISTANCE FOR REFUGEE CHILDREN.—(1) The Director is authorized to make grants, and enter into contracts, for payments for projects to provide special educational services (including English language training) to refugee children in elementary and secondary schools where a demonstrated need has been shown.

Child welfare services.

"(2)(A) The Director is authorized to provide assistance, reimbursement to States, and grants to and contracts with public and private nonprofit agencies, for the provision of child welfare services, including foster care maintenance payments and services and health care, furnished to any refugee child (except as provided in subparagraph (B)) during the thirty-six month period beginning with the first month in which such refugee child is in the United States.

"(B)(i) In the case of a refugee child who is unaccompanied by a parent or other close adult relative (as defined by the Director), the services described in subparagraph (A) may be furnished until the month after the child attains eighteen years of age (or such higher age as the State's child welfare services plan under part B of title IV of the Social Security Act prescribes for the availability of such services to any other child in that State).

42 USC 620.

Legal and financial responsibility, interim period.

"(ii) The Director shall attempt to arrange for the placement under the laws of the States of such unaccompanied refugee children, who have been accepted for admission to the United States, before (or as soon as possible after) their arrival in the United States. During any interim period while such a child is in the United States or in transit to the United States but before the child is so placed, the Director shall assume legal responsibility (including financial responsibility) for the child, if necessary, and is authorized to make necessary decisions to provide for the child's immediate care.

"(iii) In carrying out the Director's responsibilities under clause (ii), the Director is authorized to enter into contracts with appropriate public or private nonprofit agencies under such conditions as the Director determines to be appropriate.

List of unaccompanied children.

"(iv) The Director shall prepare and maintain a list of (I) all such unaccompanied children who have entered the United States after April 1, 1975, (II) the names and last known residences of their parents (if living) at the time of arrival, and (III) the children's location, status, and progress.

"(e) CASH ASSISTANCE AND MEDICAL ASSISTANCE TO REFUGEES.—(1) The Director is authorized to provide assistance, reimbursement to States, and grants to, and contracts with, public or private nonprofit agencies for up to 100 per centum of the cash assistance and medical assistance provided to any refugee during the thirty-six month period beginning with the first month in which such refugee has entered the United States and for the identifiable and reasonable administrative costs of providing this assistance.

"(2) Cash assistance provided under this subsection to an employable refugee is conditioned, except for good cause shown—

"(A) on the refugee's registration with an appropriate agency providing employment services described in subsection (c)(1), or, if there is no such agency available, with an appropriate State or local employment service; and

"(B) on the refugee's acceptance of appropriate offers of employment;

except that subparagraph (A) does not apply during the first sixty days after the date of the refugee's entry.

"(3) The Director shall develop plans to provide English training and other appropriate services and training to refugees receiving cash assistance. English training.

"(4) If a refugee is eligible for aid or assistance under a State plan approved under part A of title IV or under title XIX of the Social Security Act, or for supplemental security income benefits (including State supplementary payments) under the program established under title XVI of that Act, funds authorized under this subsection shall only be used for the non-Federal share of such aid or assistance, or for such supplementary payments, with respect to cash and medical assistance provided with respect to such refugee under this paragraph. Aid under State plan. 42 USC 601, 1396. 42 USC 1381.

"(5) The Director is authorized to allow for the provision of medical assistance under paragraph (1) to any refugee, during the one-year period after entry, who does not qualify for assistance under a State plan approved under title XIX of the Social Security Act on account of any resources or income requirement of such plan, but only if the Director determines that— Medical assistance provision. 42 USC 1396.

"(A) this will (i) encourage economic self-sufficiency, or (ii) avoid a significant burden on State and local governments; and

"(B) the refugee meets such alternative financial resources and income requirements as the Director shall establish.

"CONGRESSIONAL REPORTS

"SEC. 413. (a)(1) The Secretary, in consultation with the Coordinator, shall submit a report on activities under this chapter to the Committees on the Judiciary of the House of Representatives and of the Senate not later than the January 31 following the end of each fiscal year, beginning with fiscal year 1980. 8 USC 1523.

"(2) Each such report shall contain— Contents.

"(A) an updated profile of the employment and labor force statistics for refugees who have entered under this Act since May 1975, as well as a description of the extent to which refugees received the forms of assistance or services under this chapter during that period;

"(B) a description of the geographic location of refugees;

"(C) a summary of the results of the monitoring and evaluation conducted under section 412(a)(7) during the period for which the report is submitted;

"(D) a description of (i) the activities, expenditures, and policies of the Office under this chapter and of the activities of States, voluntary agencies, and sponsors, and (ii) the Director's plans for improvement of refugee resettlement;

"(E) evaluations of the extent to which (i) the services provided under this chapter are assisting refugees in achieving economic self-sufficiency, achieving ability in English, and achieving employment commensurate with their skills and abilities, and

(ii) any fraud, abuse, or mismanagement has been reported in the provisions of services or assistance;

"(F) a description of any assistance provided by the Director pursuant to section 412(e)(5);

"(G) a summary of the location and status of unaccompanied refugee children admitted to the United States; and

"(H) a summary of the information compiled and evaluation made under section 412(a)(8).

Analysis.

"(b) The Secretary, in consultation with the Coordinator, shall conduct and report to Congress, not later than one year after the date of the enactment of this chapter, an analysis of—

"(1) resettlement systems used by other countries and the applicability of such systems to the United States;

"(2) the desirability of using a system other than the current welfare system for the provision of cash assistance, medical assistance, or both, to refugees; and

"(3) alternative resettlement strategies.

"AUTHORIZATION OF APPROPRIATIONS

8 USC 1524.

"SEC. 414. (a)(1) There are hereby authorized to be appropriated for fiscal year 1980 and for each of the two succeeding fiscal years, such sums as may be necessary for the purpose of providing initial resettlement assistance, cash and medical assistance, and child welfare services under subsections (b)(1), (b)(3), (b)(4), (d)(2), and (e) of section 412.

"(2) There are hereby authorized to be appropriated for fiscal year 1980 and for each of the two succeeding fiscal years $200,000,000, for the purpose of carrying out the provisions (other than those described in paragraph (1)) of this chapter.

Contract authority.

"(b) The authority to enter into contracts under this chapter shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance in appropriation Acts.".

SEC. 312. (a) The table of contents of the Immigration and Nationality Act is amended—

(1) by striking out the item relating to title IV and inserting in lieu thereof the following:

"TITLE IV—MISCELLANEOUS AND REFUGEE ASSISTANCE

"CHAPTER 1—MISCELLANEOUS";

and

(2) by adding at the end the following new items:

"CHAPTER 2—REFUGEE ASSISTANCE

"Sec. 411. Office of Refugee Resettlement.
"Sec. 412. Authorization for programs for domestic resettlement of and assistance to refugees.
"Sec. 413. Congressional reports.
"Sec. 414. Authorization of appropriations.".

Contributions to United Nations.

(b)(1) Subsection (b) of section 2 of the Migration and Refugee Assistance Act of 1962 (22 U.S.C. 2601) is amended by striking out paragraphs (1) through (6) and inserting in lieu thereof the following:

"(1) for contributions to the activities of the United Nations High Commissioner for Refugees for assistance to refugees under his mandate or persons on behalf of whom he is exercising his good offices, and for contributions to the Intergovernmental Committee for European Migration, the International Commit-

tee of the Red Cross, and to other relevant international organizations; and

"(2) for assistance to or on behalf of refugees who are outside the United States designated by the President (by class, group, or designation of their respective countries of origin or areas of residence) when the President determines that such assistance will contribute to the foreign policy interests of the United States.". Assistance for refugees outside U.S.

(2) Subsection (c)(2) of such section is amended by striking out "$25,000,000" and inserting in lieu thereof "$50,000,000".

(c) The Indochina Migration and Refugee Assistance Act of 1975 (Public Law 94-23) is repealed. Repeal. 22 USC 2601 note.

SEC. 313. (a) Except as otherwise provided in this section, the amendments made by this part shall apply to fiscal years beginning on or after October 1, 1979. Limitations. 8 USC 1522 note.

(b) Subject to subsection (c), the limitations contained in sections 412(d)(2)(A) and 412(e)(1) of the Immigration and Nationality Act on the duration of the period for which child welfare services and cash and medical assistance may be provided to particular refugees shall not apply to such services and assistance provided before April 1, 1981. *Ante*, p. 111.

(c) Notwithstanding section 412(e)(1) of the Immigration and Nationality Act and in lieu of any assistance which may otherwise be provided under such section with respect to Cuban refugees who entered the United States and were receiving assistance under section 2(b) of the Migration and Refugee Assistance Act of 1962 before October 1, 1978, the Director of the Office of Refugee Resettlement is authorized— Cuban refugees. 22 USC 2601.

(1) to provide reimbursement—

(A) in fiscal year 1980, for 75 percent,

(B) in fiscal year 1981, for 60 percent,

(C) in fiscal year 1982, for 45 percent, and

(D) in fiscal year 1983, for 25 percent,

of the non-Federal costs of providing cash and medical assistance (other than assistance described in paragraph (2)) to such refugees, and

(2) to provide reimbursement in any fiscal year for 100 percent of the non-Federal costs associated with such Cuban refugees with respect to whom supplemental security income payments were being paid as of September 30, 1978, under title XVI of the Social Security Act. Non-Federal cost reimbursement.

(d) The requirements of section 412(a)(6)(A) of the Immigration and Nationality Act shall apply to assistance furnished under chapter 2 of title IV of such Act after October 1, 1980, or such earlier date as the Director of the Office of Refugee Resettlement may establish. *Ante*, p. 111.

TITLE IV—SOCIAL SERVICES FOR CERTAIN APPLICANTS FOR ASYLUM

SEC. 401. (a) The Director of the Office of Refugee Resettlement is authorized to use funds appropriated under paragraphs (1) and (2) of section 414(a) of the Immigration and Nationality Act to reimburse State and local public agencies for expenses which those agencies incurred, at any time, in providing aliens described in subsection (c) of this section with social services of the types for which reimbursements were made with respect to refugees under paragraphs (3) through (6) of section 2(b) of the Migration and Refugee Assistance 8 USC 1522 note. *Ante*, p. 116.

22 USC 2601.

Act of 1962 (as in effect prior to the enactment of this Act) or under any other Federal law.

Work permit.

(b) The Attorney General is authorized to grant to an alien described in subsection (c) of this section permission to engage in employment in the United States and to provide to that alien an "employment authorized" endorsement or other appropriate work permit.

Applicability.

(c) This section applies with respect to any alien in the United States (1) who has applied before November 1, 1979, for asylum in the United States, (2) who has not been granted asylum, and (3) with respect to whom a final, nonappealable, and legally enforceable order of deportation or exclusion has not been entered.

Approved March 17, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 96-608 accompanying H.R. 2816 (Comm. on the Judiciary) and No. 96-781 (Comm. of Conference).

SENATE REPORTS: No. 96-256 (Comm. on the Judiciary) and No. 96-590 (Comm. of Conference).

CONGRESSIONAL RECORD:

Vol. 125 (1979): Sept. 6, considered and passed Senate.
Dec. 13, 20, H.R. 2816 considered and passed House; passage vacated and S. 643, amended, passed in lieu.

Vol. 126 (1980): Feb. 26, Senate agreed to conference report.
Mar. 4, House agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:

Vol. 16, No. 12 (1980): Mar. 18, Presidential statement.

Public Law 96-213
96th Congress

An Act

To adjust target prices for the 1980 and 1981 crops of wheat and feed grains; to extend the disaster payment programs for the 1980 crops of wheat, feed grains, upland cotton, and rice; and to authorize the Secretary of Agriculture to require that producers of wheat, feed grains, upland cotton, and rice not exceed the normal crop acreage for the 1980 and 1981 crops.

Mar. 18, 1980
[H.R. 3398]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Agricultural Adjustment Act of 1980".

Agricultural Adjustment Act of 1980.
7 USC 1421 note.

TARGET PRICES FOR THE 1980 AND 1981 CROPS OF CORN AND WHEAT

SEC. 2. Section 105A(b)(1) of the Agricultural Act of 1949 is amended by— 7 USC 1444c.

(1) in the third sentence of subparagraph (B), striking out "through 1981 crops" and inserting in lieu thereof "crop"; and

(2) adding at the end of subparagraph (B) two new sentences as follows: "The established price for corn shall be $2.35 per bushel in the case of the 1980 crop. For the 1981 crop, the established price shall be not less than the established price for the 1980 crop, adjusted upward to reflect such changes in the cost of producing corn as the Secretary finds necessary and appropriate for the purpose of establishing and maintaining a fair and equitable relationship between loan rates, established prices, and production costs for corn and competing commodities.".

SEC. 3. Section 107A(b)(1) of the Agricultural Act of 1949 is amended by striking out the fourth sentence of subparagraph (B) and adding at the end thereof two new sentences as follows: "The established price for wheat shall be $3.63 per bushel in the case of the 1980 crop. For the 1981 crop, the established price shall be not less than the established price for the 1980 crop, adjusted upward to reflect such changes in the cost of producing wheat as the Secretary finds necessary and appropriate for the purpose of establishing and maintaining a fair and equitable relationship between loan rates, established prices, and production costs for wheat and competing commodities.". 7 USC 1445b.

EXTENSION OF DISASTER PAYMENT PROGRAMS

SEC. 4. (a) Section 101(h)(4) of the Agricultural Act of 1949 is amended by— 7 USC 1441.

(1) in subparagraph (B), striking out "1978 and 1979 crops of rice" and inserting in lieu thereof "1978, 1979, and 1980 crops of rice"; and

(2) in subparagraph (C), striking out "1978 and 1979 crops of rice" and inserting in lieu thereof "1978, 1979, and 1980 crops of rice".

(b) Section 103(f)(5) of the Agricultural Act of 1949 is amended by— 7 USC 1444.

(1) in subparagraph (A), striking out "1978 and 1979 crops of upland cotton" and inserting in lieu thereof "1978, 1979, and 1980 crops of upland cotton"; and

(2) in subparagraph (B), striking out "1978 and 1979 crops of upland cotton" and inserting in lieu thereof "1978, 1979, and 1980 crops of upland cotton".

7 USC 1444c.

(c) Section 105A(b)(2) of the Agricultural Act of 1949 is amended by—

(1) in subparagraph (A), striking out "1978 and 1979 crops of feed grains" and inserting in lieu thereof "1978, 1979, and 1980 crops of feed grains"; and

(2) in subparagraph (B), striking out "1978 and 1979 crops of feed grains" and inserting in lieu thereof "1978, 1979, and 1980 crops of feed grains".

7 USC 1445b.

(d) Section 107A(b)(2) of the Agricultural Act of 1949 is amended by—

(1) in subparagraph (A), striking out "1978 and 1979 crops of wheat" and inserting in lieu thereof "1978, 1979, and 1980 crops of wheat"; and

(2) in subparagraph (B), striking out "1978 and 1979 crops of wheat" and inserting in lieu thereof "1978, 1979, and 1980 crops of wheat".

LIMITATIONS ON DISASTER PAYMENTS

7 USC 1308.

SEC. 5. Effective for the 1980 and 1981 crops, section 101 of the Food and Agriculture Act of 1977 is amended by—

(1) in subsection (1), inserting "(excluding disaster payments)" after "payments";

(2) inserting after subsection (1) a new subsection (2) as follows:

"(2) Beginning with the 1980 crop year, the total amount of disaster payments that a person shall be entitled to receive under one or more of the annual programs established under the Agricultural Act of 1949, as amended, and the Agricultural Adjustment Act of 1938, as amended, for wheat, feed grains, upland cotton, and rice for any crop year shall not exceed $100,000.";

7 USC 1421 note.
7 USC 1281.

(3) redesignating subsections (2), (3), and (4) as subsections (3), (4), and (5), respectively; and

(4) in subsection (3), as redesignated by clause (3) of this section, striking out "disaster loss or".

NORMAL CROP ACREAGE

7 USC 1309.

SEC. 6. Effective for the 1980 and 1981 crops, section 1001 of the Food and Agriculture Act of 1977 is amended to read as follows:

"NORMALLY PLANTED ACREAGE AND TARGET PRICES

Loans, purchases, and payments, eligibility.

"SEC. 1001. (a) Notwithstanding any other provision of law, effective for one or more of the 1980 and 1981 crops of wheat, feed grains, upland cotton, and rice, the Secretary of Agriculture may require, as a condition of eligibility for loans, purchases, and payments under the Agricultural Act of 1949, that producers not exceed the acreage on the farm normally planted to crops designated by the Secretary, adjusted as deemed necessary by the Secretary to be fair and equitable among producers. The acreage for any farm normally planted to crops designated by the Secretary shall be reduced by any set-aside or diverted acreage.

7 USC 1421 note.

"(b) Notwithstanding any other provision of law—

"(1) Whenever the Secretary, for one or more of the 1980 and 1981 crops of wheat, feed grains, upland cotton, and rice, requires that producers not exceed the acreage on the farm normally planted to crops designated by the Secretary in accordance with subsection (a) of this section, the Secretary may increase the established price for any such commodity by the amount the Secretary determines appropriate to compensate producers for not exceeding the acreage on the farm normally planted to crops designated by the Secretary and participation in any required set-aside with respect to such commodity. Established price, increase.

"(2) In determining the amount of any increase in the established price for any commodity under this subsection, the Secretary shall take into account changes in the cost of production resulting from not exceeding the acreage on the farm normally planted to crops designated by the Secretary and participation in any required set-aside with respect to such commodity.

"(3) If the established price is increased for any commodity under this subsection, the Secretary may increase the established price for any other commodity in such amount as the Secretary determines necessary for effective operation of the program.

"(4) The Secretary shall adjust any increase in the established price under this subsection to reflect, in whole or in part, any land diversion payments for the commodity for which an increase is determined.

"(c) Notwithstanding any other provision of this section, producers of the 1980 crop of any commodity who exceed the acreage on the farm normally planted to crops designated by the Secretary may receive loans and purchases and, in the case of commodities for which there is an established price, payments based on the established price for the commodity as determined under the applicable provisions of the Agricultural Act of 1949 in effect on the date preceding the date of enactment of the Agricultural Adjustment Act of 1980.". 1980 crop, loans, purchases and payments. 7 USC 1421 note. *Ante*, p. 119.

Approved March 18, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 96-228, pt. 1 (Comm. on Agriculture), No. 96-228, pt. 2 (Comm. on Appropriations), and No. 96-789 (Comm. of Conference).
SENATE REPORT No. 96-446 (Comm. on Agriculture, Nutrition, and Forestry).
CONGRESSIONAL RECORD:
Vol. 125 (1979): Nov. 8, considered and passed House.
Dec. 20, considered and passed Senate, amended.
Vol. 126 (1980): Mar. 4, Senate and House agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:
Vol. 16, No. 12 (1980): Mar. 18, Presidential statement.

Public Law 96-214
96th Congress

An Act

Mar. 24, 1980
[S. 2225]

To provide that receipts from certain sales of items by the Sergeant at Arms of the Senate to Senators and committees and offices of the Senate shall be credited to the appropriation from which such items were purchased.

Contingent expenses of the Senate, sales receipts for certain items.
2 USC 111a.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in any case in which appropriated funds are used by a Senator or a committee or office of the Senate to purchase from the Sergeant at Arms and Doorkeeper of the Senate items which were purchased by him from the appropriation for "miscellaneous items" under "Contingent Expenses of the Senate" in any appropriation Act, the amounts received by the Sergeant at Arms and Doorkeeper shall be deposited in the Treasury of the United States for credit to such appropriation. This Act does not apply to amounts received from the sale of used or surplus furniture and equipment.

Approved March 24, 1980.

LEGISLATIVE HISTORY:

SENATE REPORT No. 96-556 (Comm. on Rules and Administration).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Feb. 5, considered and passed Senate.
Mar. 11, considered and passed House.

Public Law 96-215
96th Congress

An Act

To authorize the voluntary interservice transfer of officers between the commissioned corps of the National Oceanic and Atmospheric Administration and the Armed Forces, to authorize advance payments of pay and allowances to officers of such corps under the same conditions that apply to advance payments to members of the Armed Forces, and to provide officers of such corps the same unemployment compensation benefits that apply to members of the Armed Forces.

Mar. 25, 1980
[S. 1454]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3(a) of the Act of August 10, 1956 (70A Stat. 619; 33 U.S.C. 857a(a)), is amended by adding at the end thereof the following new clause:

Armed Forces and NOAA, transfer of personnel. Authorization of benefits.

"(13) Section 716, Commissioned officers: transfers between armed forces and to and from National Oceanic and Atmospheric Administration.".

SEC. 2. (a) Section 716 of title 10, United States Code, is amended to read as follows:

"§716. Commissioned officers: transfers between armed forces and to and from National Oceanic and Atmospheric Administration

"(a) Notwithstanding any other provision of law, the President may, within authorized strengths, transfer any commissioned officer with his consent from his armed force or from the National Oceanic and Atmospheric Administration to, and appoint him in, another armed force or the National Oceanic and Atmospheric Administration. The Secretary of Defense, the Secretary of the department in which the Coast Guard is operating, and the Secretary of Commerce shall jointly establish, by regulations approved by the President, policies, and procedures for such transfers and appointments.

Regulations.

"(b) An officer transferred under this section—

"(1) may not be assigned precedence or relative rank higher than that which he held on the day before his transfer; and

"(2) shall be credited for retirement and pay purposes with the same years of service with which he has been credited on the day before his transfer.".

(b) The item relating to such section in the table of sections at the beginning of chapter 41 of such title is amended to read as follows:

"716. Commissioned officers: transfers between armed forces and to and from National Oceanic and Atmospheric Administration.".

SEC. 3. Section 1006 of title 37, United States Code, is amended—

Advance payments.

(1) by striking out "an armed force or of the Public Health Service" in subsection (a), (b), and (c) and inserting in lieu thereof "a uniformed service";

(2) by striking out "members of the armed forces or of the Public Health Service" in subsection (c) and inserting in lieu thereof "members of the uniformed services";

(3) by striking out "from his armed force or from the Public Health Service" in subsection (d) and inserting in lieu thereof "from his uniformed service";

(4) by striking out "armed forces and the Public Health Service" in subsection (e) and inserting in lieu thereof "uniformed services"; and

(5) by striking out "an armed force or of the Public Health Service" in subsection (h) and inserting in lieu thereof "a uniformed service".

SEC. 4. (a) Subparagraph (B) of section 8501(1) of title 5, United States Code, is amended to read as follows:

"(B) as a member of the armed forces or the Commissioned Corps of the National Oceanic and Atmospheric Administration;".

(b) Paragraph (1) of section 8521(a) of title 5, United States Code, is amended by inserting "or the Commissioned Corps of the National Oceanic and Atmospheric Administration" after "armed forces".

5 USC 8501 note.

(c) The amendments made by this section shall apply with respect to assignments of services and wages pursuant to any first claim (for a benefit year) which is filed after the date of the enactment of this Act.

Approved March 25, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 96-539, pt. 1 (Comm. on Ways and Means), No. 96-539, pt. 2 (Comm. on Merchant Marine and Fisheries), and No. 96-539, pt. 3 (Comm. on Armed Services).

SENATE REPORT No. 96-297 (Comm. on Commerce, Science, and Transportation).

CONGRESSIONAL RECORD:

Vol. 125 (1979): Sept. 6, considered and passed Senate.
Dec. 20, considered and passed House, amended.

Vol. 126 (1980): Mar. 11, Senate concurred in House amendments.

Public Law 96-216
96th Congress

An Act

To amend the Act of August 9, 1955 (69 Stat. 539) (25 U.S.C. 415), as amended, to authorize a ninety-nine-year lease for the Moses Allotment Numbered 10, Chelan County, Washington.

Mar. 27, 1980
[S. 1682]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the first section of the Act of August 9, 1955 (69 Stat. 539), as amended (25 U.S.C. 415), is amended by striking out "and the Navajo Reservation" and inserting in lieu thereof the following: "the Navajo Reservation, and the lands comprising the Moses Allotment Numbered 10, Chelan County, Washington".

Indian lands in Chelan County, Wash., lease authorization.

Approved March 27, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-808 accompanying H.R. 5900 (Comm. on Interior and Insular Affairs).
SENATE REPORT No. 96-395 (Comm. on Indian Affairs).
CONGRESSIONAL RECORD:
Vol. 125 (1979): Nov. 7, considered and passed Senate.
Vol. 126 (1980): Mar. 17, H.R. 5900 considered and passed House.
Mar. 18, considered and passed House in lieu of H.R. 5900.

Public Law 96-217
96th Congress

An Act

Mar. 27, 1980
[S. 2222]

To extend the time for commencing actions on behalf of an Indian tribe, band, or group, or on behalf of an individual Indian whose land is held in trust or restricted status.

Indian claims. Commencement of actions, extension.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the third proviso in section 2415(a) of title 28, United States Code, is amended by striking out "after April 1, 1980" and inserting in lieu thereof "after December 31, 1982".

(b) The proviso in section 2415(b) of title 28, United States Code, is amended by striking out "on or before April 1, 1980" and inserting in lieu thereof "on or before December 31, 1982".

Legislative proposals, submittal to Congress. 28 USC 2415 note.

SEC. 2. Not later than June 30, 1981, the Secretary of the Interior, after consultation with the Attorney General, shall submit to the Congress legislative proposals to resolve those Indian claims subject to the amendments made by the first section of this Act that the Secretary of the Interior or the Attorney General believes are not appropriate to resolve by litigation.

Approved March 27, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 96-807 (Comm. on the Judiciary) and No. 96-843 (Comm. of Conference).
SENATE REPORT No. 96-569 (Comm. on Indian Affairs).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Feb. 20, considered and passed Senate.
Mar. 18, considered and passed House, amended.
Mar. 24, House and Senate agreed to conference report.

Public Law 96-218
96th Congress

Joint Resolution

Authorizing the President to proclaim May 1, 1980, "National Bicycling Day".

Mar. 28, 1980
[H.J. Res. 414]

Whereas, for more than a century, Americans of all ages have used the bicycle for personal transportation, health, fitness, and enjoyment;

Whereas more than one hundred million Americans engage in bicycling for recreation and transportation;

Whereas, for more than twenty years, the bicycle industry of the United States has celebrated the month of May as American Bike Month, observing the joys and utility of this unique, human-powered vehicle;

Whereas no single vehicle is more widely used by the youth of our Nation;

Whereas, with the increasing complexity of our national energy situation, Americans of all ages have discovered the great variety of practical uses of the bicycle for commuting, shopping, touring, improving physical fitness, camping, and enjoying the out-of-doors; and

Whereas the bicycle can be expected to play an increasingly important role in our Nation's energy conservation program: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States is authorized and requested to issue a proclamation designating May 1, 1980, as "National Bicycling Day", and calling upon the people of the United States to observe such day with appropriate activities.

National Bicycling Day. Designation authorization.

Approved March 28, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-792 (Comm. on Post Office and Civil Service).
SENATE REPORT No. 96-621 accompanying S.J. Res. 100 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Mar. 3, considered and passed House.
Mar. 18, considered and passed Senate, in lieu of S.J. Res. 100.

79-194 O—81—pt. 1——12 : QL3

Public Law 96-219
96th Congress

Joint Resolution

Mar. 28, 1980
[H.J. Res. 514]

Making additional funds available by transfer for the fiscal year ending September 30, 1980, for the Federal Trade Commission.

Federal Trade Commission, transfer of funds.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sum is transferred, out of funds previously appropriated, for the fiscal year ending September 30, 1980, namely:

FEDERAL TRADE COMMISSION

SALARIES AND EXPENSES

(By transfer)

For an additional amount for "Salaries and expenses", $12,100,000, which shall be derived by transfer from unobligated balances available under the heading "International Communication Agency, Salaries and Expenses": *Provided,* That authority made available by this joint resolution shall be available from March 15, 1980, and shall remain available until April 30, 1980: *Provided further,* That obligations of the Federal Trade Commission made pursuant to this joint resolution shall not exceed $9,800,000: *Provided further,* That none of the funds made available by this joint resolution for the Federal Trade Commission may be used for the final promulgation of trade regulation rules authorized by section 18 of the Federal Trade Commission Act, as amended, nor to initiate any new activities: *Provided further,* That no new trade regulation rules promulgated under the authority of section 18 of the Federal Trade Commission Act, as amended, after August 30, 1979, are to become effective during the period covered by this joint resolution for the Federal Trade Commission, unless authorizing legislation for the Federal Trade Commission is enacted into law during such period.

15 USC 57a.

Approved March 28, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-848 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Mar. 26, considered and passed House and Senate.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 16, No. 13:
Mar. 28, Presidential statement.

Public Law 96-220
96th Congress

An Act

To extend the Emergency Agricultural Credit Adjustment Act of 1978, and for other purposes.

Mar. 30, 1980
[S. 2269]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Emergency Agricultural Credit Adjustment Act of 1978, extension.
7 USC prec. 1961 note.

SECTION 1. The Emergency Agricultural Credit Adjustment Act of 1978 (7 U.S.C. prec. 1961 note) is amended by—

(1)(A) amending clause (C) of section 202 to read as follows: "(C) is not able to obtain sufficient credit elsewhere due to economic stresses, such as a general tightening of agricultural credit or an unfavorable relationship between production costs and prices received for agricultural commodities."; and

Definition.

(B) in the last sentence of section 202, striking out "and" and inserting immediately before the period at the end of the sentence a semicolon and the following: "and the term 'able to obtain sufficient credit elsewhere' means able to obtain sufficient credit elsewhere to finance the applicant's actual needs at reasonable rates and terms, taking into consideration prevailing private and cooperative rates and terms in the community in or near which the applicant resides for loans for similar purposes and periods of time. For the purpose of determining whether an applicant under this title is not able to obtain sufficient credit elsewhere, the Secretary shall require at least one written indication of declination of credit, from a legally organized lending institution within reasonable proximity to the applicant, that specifies the reasons for the declination: *Provided,* That for loans in excess of $300,000, the Secretary shall require at least two such written declinations: *Provided further,* That for loans of $300,000 or less, the Secretary may waive the requirement of this sentence if the Secretary determines that it would impose an undue burden on the applicant";

Declination of credit, written indication.

(2) in section 203(a)(1), inserting before the comma at the end thereof a colon and the following: "*Provided,* That no loan may be insured or guaranteed under this title for the purpose of refinancing outstanding indebtedness on farm or home real estate unless such real estate was purchased by the applicant at least one year prior to the date of the loan application";

7 USC prec. 1961 note.

(3) in section 205(d), adding at the end thereof a new sentence as follows: "For purposes of carrying out the agreements required under clause (2) of the preceding sentence, not later than three years after the loan is insured, and not later than at the end of every two-year period thereafter for the term of the loan, the Secretary shall review the loan; and if, based on such review, the Secretary determines that the borrower is able to obtain a loan from a credit source specified in clause (2) at reasonable rates and terms for loans for similar purposes and periods of time, the borrower shall, on request by the Secretary, apply for and accept such loan pursuant to the terms of the agreement and clause (2).";

Loan review.
7 USC prec. 1961 note.

7 USC prec. 1961 note.

(4) at the end of section 205, adding a new subsection (e) as follows:

"(e) No loan that is for more than $300,000 may be insured under this title, unless the Secretary determines that the applicant is not able to obtain from a private or cooperative lending agency a loan guaranteed by the Secretary under this title sufficient to finance the applicant's actual needs at reasonable rates and terms.";

7 USC prec. 1961 note.

(5) in section 207(c), striking out "$4,000,000,000" and inserting in lieu thereof "$6,000,000,000";

7 USC prec. 1961 note.

(6) in section 211, striking out "May 15, 1980" and inserting in lieu thereof "September 30, 1981"; and

(7) adding at the end thereof a new section 212 as follows:

"STUDY AND REPORT

7 USC prec. 1961 note.

"SEC. 212. (a) The Secretary shall conduct a comprehensive study of the operation and effectiveness of the program of financial assistance authorized under this title. The study shall include, but shall not be limited to, an examination and analysis of the following items:

"(1) the effect of loans insured or guaranteed under this title on the overall financial condition of borrowers and their ability to maintain viable agricultural production operations;

"(2) the implementation and effect of the provisions of this title requiring, as a condition of eligibility, that loan applicants not be able to obtain sufficient credit elsewhere;

"(3) the loan repayment delinquency rate and the percentage of borrowers who subsequently are able to obtain credit from other sources and repay the loans extended to them under this title;

"(4) the use under this title of loan guarantees as compared with insured loans;

"(5) the purposes for which loans are actually insured or guaranteed under this title in relation to the purposes specified in section 203, and an evaluation of the family farm preference established under section 203(b);

Ante, p. 129.
7 USC prec. 1961 note.

"(6) the methods of servicing loans and encouraging the repayment of loans insured or guaranteed under this title; and

"(7) the need for extending beyond September 30, 1981, the authority for insuring and guaranteeing loans under this title.

Report to Congress.

"(b) The Secretary shall complete the study required under this section and submit a report to Congress by March 31, 1981. Any recommendations by the Secretary for extending the authority to insure and guarantee loans under this title shall contain an evaluation of possible alternatives, such as (1) the merger of the program of financial assistance authorized under this title with the farm ownership and operating loan programs authorized under the Consolidated Farm and Rural Development Act, and (2) the combination of all farm loan programs into a single program.".

7 USC 1921 note.

SEC. 2. The provisions of sections 1(5), 1(6), and 1(7) of this Act shall become effective on the date of enactment of this Act. The other provisions of section 1 of this Act shall become effective upon promulgation by the Secretary of Agriculture of regulations implementing such provisions within a reasonable time after the date of enactment of this Act, but in no event shall such provisions become effective later than October 1, 1980.

Effective dates.
7 USC prec. 1961 note.
Regulations.

Approved March 30, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 96-782 accompanying H.R. 6291 (Comm. on Agriculture) and No. 96-854 (Comm. of Conference).
SENATE REPORT No. 96-591 (Comm. on Agriculture, Nutrition, and Forestry).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Mar. 4, considered and passed Senate.
Mar. 5, H.R. 6291 considered and passed House; passage vacated and S. 2269, amended, passed in lieu.
Mar. 26, Senate agreed to conference report.
Mar. 27, House agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 16, No. 14:
Mar. 30, Presidential statement.

Public Law 96-221
96th Congress

An Act

Mar. 31, 1980
[H.R. 4986]

To facilitate the implementation of monetary policy, to provide for the gradual elimination of all limitations on the rates of interest which are payable on deposits and accounts, and to authorize interest-bearing transaction accounts, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Depository Institutions Deregulation and Monetary Control Act of 1980.

SHORT TITLE

12 USC 226 note.

SECTION 1. This Act may be cited as the "Depository Institutions Deregulation and Monetary Control Act of 1980".

TITLE I—MONETARY CONTROL ACT OF 1980

Monetary Control Act of 1980.

SHORT TITLE

12 USC 226 note.

SEC. 101. This title may be cited as the "Monetary Control Act of 1980".

REPORTING REQUIREMENTS

SEC. 102. Section 11(a) of the Federal Reserve Act (12 U.S.C. 248(a)) is amended—

(1) by inserting "(1)" after "(a)"; and

(2) by adding at the end thereof the following new paragraph:

Reports of assets and liabilities.

"(2) To require any depository institution specified in this paragraph to make, at such intervals as the Board may prescribe, such reports of its liabilities and assets as the Board may determine to be necessary or desirable to enable the Board to discharge its responsibility to monitor and control monetary and credit aggregates. Such reports shall be made (A) directly to the Board in the case of member banks and in the case of other depository institutions whose reserve requirements under section 19 of this Act exceed zero, and (B) for all other reports to the Board through the (i) Federal Deposit Insurance Corporation in the case of insured State nonmember banks, savings banks, and mutual savings banks, (ii) National Credit Union Administration Board in the case of insured credit unions, (iii) Federal Home Loan Bank Board in the case of any institution insured by the Federal Savings and Loan Insurance Corporation or which is a member as defined in section 2 of the Federal Home Loan Bank Act, and (iv) such State officer or agency as the Board may designate in the case of any other type of bank, savings and loan association, or credit union. The Board shall endeavor to avoid the imposition of unnecessary burdens on reporting institutions and the duplication of other reporting requirements. Except as otherwise required by law, any data provided to any department, agency, or instrumentality of the United States pursuant to other reporting requirements shall be made available to the Board. The Board may classify depository

12 USC 461.

12 USC 1422.

institutions for the purposes of this paragraph and may impose different requirements on each such class.".

RESERVE REQUIREMENTS

SEC. 103. Section 19(b) of the Federal Reserve Act (12 U.S.C. 461(b)) is amended to read as follows:

"(b) RESERVE REQUIREMENTS.—

"(1) DEFINITIONS.—The following definitions and rules apply to this subsection, subsection (c), section 11A, the first paragraph of section 13, and the second, thirteenth, and fourteenth paragraphs of section 16: *Post*, p. 140. *Post*, p. 139. *Post*, p. 140.

"(A) The term 'depository institution' means—

"(i) any insured bank as defined in section 3 of the Federal Deposit Insurance Act or any bank which is eligible to make application to become an insured bank under section 5 of such Act; 12 USC 1813.

"(ii) any mutual savings bank as defined in section 3 of the Federal Deposit Insurance Act or any bank which is eligible to make application to become an insured bank under section 5 of such Act; 12 USC 1815.

"(iii) any savings bank as defined in section 3 of the Federal Deposit Insurance Act or any bank which is eligible to make application to become an insured bank under section 5 of such Act;

"(iv) any insured credit union as defined in section 101 of the Federal Credit Union Act or any credit union which is eligible to make application to become an insured credit union pursuant to section 201 of such Act; 12 USC 1752. 12 USC 1781.

"(v) any member as defined in section 2 of the Federal Home Loan Bank Act; 12 USC 1422.

"(vi) any insured institution as defined in section 401 of the National Housing Act or any institution which is eligible to make application to become an insured institution under section 403 of such Act; and 12 USC 1724. 12 USC 1726.

"(vii) for the purpose of section 13 and the fourteenth paragraph of section 16, any association or entity which is wholly owned by or which consists only of institutions referred to in clauses (i) through (vi). *Post*, p. 139. *Post*, p. 140.

"(B) The term 'bank' means any insured or noninsured bank, as defined in section 3 of the Federal Deposit Insurance Act, other than a mutual savings bank or a savings bank as defined in such section. 12 USC 1813.

"(C) The term 'transaction account' means a deposit or account on which the depositor or account holder is permitted to make withdrawals by negotiable or transferable instrument, payment orders of withdrawal, telephone transfers, or other similar items for the purpose of making payments or transfers to third persons or others. Such term includes demand deposits, negotiable order of withdrawal accounts, savings deposits subject to automatic transfers, and share draft accounts.

"(D) The term 'nonpersonal time deposits' means a transferable time deposit or account or a time deposit or account representing funds deposited to the credit of, or in which any beneficial interest is held by, a depositor who is not a natural person.

Transaction account, determination by regulation.

"(E) In order to prevent evasions of the reserve requirements imposed by this subsection, after consultation with the Board of Directors of the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board, and the National Credit Union Administration Board, the Board of Governors of the Federal Reserve System is authorized to determine, by regulation or order, that an account or deposit is a transaction account if such account or deposit may be used to provide funds directly or indirectly for the purpose of making payments or transfers to third persons or others.

"(2) RESERVE REQUIREMENTS.—(A) Each depository institution shall maintain reserves against its transaction accounts as the Board may prescribe by regulation solely for the purpose of implementing monetary policy—

"(i) in the ratio of 3 per centum for that portion of its total transaction accounts of $25,000,000 or less, subject to subparagraph (C); and

"(ii) in the ratio of 12 per centum, or in such other ratio as the Board may prescribe not greater than 14 per centum and not less than 8 per centum, for that portion of its total transaction accounts in excess of $25,000,000, subject to subparagraph (C).

"(B) Each depository institution shall maintain reserves against its nonpersonal time deposits in the ratio of 3 per centum, or in such other ratio not greater than 9 per centum and not less than zero per centum as the Board may prescribe by regulation solely for the purpose of implementing monetary policy.

Regulation.

"(C) Beginning in 1981, not later than December 31 of each year the Board shall issue a regulation increasing for the next succeeding calendar year the dollar amount which is contained in subparagraph (A) or which was last determined pursuant to this subparagraph for the purpose of such subparagraph, by an amount obtained by multiplying such dollar amount by 80 per centum of the percentage increase in the total transaction accounts of all depository institutions. The increase in such transaction accounts shall be determined by subtracting the amount of such accounts on June 30 of the preceding calendar year from the amount of such accounts on June 30 of the calendar year involved. In the case of any such 12-month period in which there has been a decrease in the total transaction accounts of all depository institutions, the Board shall issue such a regulation decreasing for the next succeeding calendar year such dollar amount by an amount obtained by multiplying such dollar amount by 80 per centum of the percentage decrease in the total transaction accounts of all depository institutions. The decrease in such transaction accounts shall be determined by subtracting the amount of such accounts on June 30 of the calendar year involved from the amount of such accounts on June 30 of the previous calendar year.

Uniform application.

"(D) Any reserve requirement imposed under this subsection shall be uniformly applied to all transaction accounts at all depository institutions. Reserve requirements imposed under this subsection shall be uniformly applied to nonpersonal time deposits at all depository institutions, except that such requirements may vary by the maturity of such deposits.

Waiver.

"(3) WAIVER OF RATIO LIMITS IN EXTRAORDINARY CIRCUMSTANCES.—Upon a finding by at least 5 members of the Board

that extraordinary circumstances require such action, the Board, after consultation with the appropriate committees of the Congress, may impose, with respect to any liability of depository institutions, reserve requirements outside the limitations as to ratios and as to types of liabilities otherwise prescribed by paragraph (2) for a period not exceeding 180 days, and for further periods not exceeding 180 days each by affirmative action by at least 5 members of the Board in each instance. The Board shall promptly transmit to the Congress a report of any exercise of its authority under this paragraph and the reasons for such exercise of authority. Report to Congress.

"(4) SUPPLEMENTAL RESERVES.—(A) The Board may, upon the affirmative vote of not less than 5 members, impose a supplemental reserve requirement on every depository institution of not more than 4 per centum of its total transaction accounts. Such supplemental reserve requirement may be imposed only if—

"(i) the sole purpose of such requirement is to increase the amount of reserves maintained to a level essential for the conduct of monetary policy;

"(ii) such requirement is not imposed for the purpose of reducing the cost burdens resulting from the imposition of the reserve requirements pursuant to paragraph (2);

"(iii) such requirement is not imposed for the purpose of increasing the amount of balances needed for clearing purposes; and

"(iv) on the date on which the supplemental reserve requirement is imposed, the total amount of reserves required pursuant to paragraph (2) is not less than the amount of reserves that would be required if the initial ratios specified in paragraph (2) were in effect.

"(B) The Board may require the supplemental reserve authorized under subparagraph (A) only after consultation with the Board of Directors of the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board, and the National Credit Union Administration Board. The Board shall promptly transmit to the Congress a report with respect to any exercise of its authority to require supplemental reserves under subparagraph (A) and such report shall state the basis for the determination to exercise such authority. Report to Congress.

"(C) The supplemental reserve authorized under subparagraph (A) shall be maintained by the Federal Reserve banks in an Earnings Participation Account. Except as provided in subsection (c)(1)(A)(ii), such Earnings Participation Account shall receive earnings to be paid by the Federal Reserve banks during each calendar quarter at a rate not more than the rate earned on the securities portfolio of the Federal Reserve System during the previous calendar quarter. The Board may prescribe rules and regulations concerning the payment of earnings on Earnings Participation Accounts by Federal Reserve banks under this paragraph. Earnings Participation Account.

"(D) If a supplemental reserve under subparagraph (A) has been required of depository institutions for a period of one year or more, the Board shall review and determine the need for continued maintenance of supplemental reserves and shall transmit annual reports to the Congress regarding the need, if any, for continuing the supplemental reserve. Reports to Congress.

"(E) Any supplemental reserve imposed under subparagraph (A) shall terminate at the close of the first 90-day period after Termination.

Transaction account, determination by regulation.

"(E) In order to prevent evasions of the reserve requirements imposed by this subsection, after consultation with the Board of Directors of the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board, and the National Credit Union Administration Board, the Board of Governors of the Federal Reserve System is authorized to determine, by regulation or order, that an account or deposit is a transaction account if such account or deposit may be used to provide funds directly or indirectly for the purpose of making payments or transfers to third persons or others.

"(2) RESERVE REQUIREMENTS.—(A) Each depository institution shall maintain reserves against its transaction accounts as the Board may prescribe by regulation solely for the purpose of implementing monetary policy—

"(i) in the ratio of 3 per centum for that portion of its total transaction accounts of $25,000,000 or less, subject to subparagraph (C); and

"(ii) in the ratio of 12 per centum, or in such other ratio as the Board may prescribe not greater than 14 per centum and not less than 8 per centum, for that portion of its total transaction accounts in excess of $25,000,000, subject to subparagraph (C).

"(B) Each depository institution shall maintain reserves against its nonpersonal time deposits in the ratio of 3 per centum, or in such other ratio not greater than 9 per centum and not less than zero per centum as the Board may prescribe by regulation solely for the purpose of implementing monetary policy.

Regulation.

"(C) Beginning in 1981, not later than December 31 of each year the Board shall issue a regulation increasing for the next succeeding calendar year the dollar amount which is contained in subparagraph (A) or which was last determined pursuant to this subparagraph for the purpose of such subparagraph, by an amount obtained by multiplying such dollar amount by 80 per centum of the percentage increase in the total transaction accounts of all depository institutions. The increase in such transaction accounts shall be determined by subtracting the amount of such accounts on June 30 of the preceding calendar year from the amount of such accounts on June 30 of the calendar year involved. In the case of any such 12-month period in which there has been a decrease in the total transaction accounts of all depository institutions, the Board shall issue such a regulation decreasing for the next succeeding calendar year such dollar amount by an amount obtained by multiplying such dollar amount by 80 per centum of the percentage decrease in the total transaction accounts of all depository institutions. The decrease in such transaction accounts shall be determined by subtracting the amount of such accounts on June 30 of the calendar year involved from the amount of such accounts on June 30 of the previous calendar year.

Uniform application.

"(D) Any reserve requirement imposed under this subsection shall be uniformly applied to all transaction accounts at all depository institutions. Reserve requirements imposed under this subsection shall be uniformly applied to nonpersonal time deposits at all depository institutions, except that such requirements may vary by the maturity of such deposits.

Waiver.

"(3) WAIVER OF RATIO LIMITS IN EXTRAORDINARY CIRCUMSTANCES.—Upon a finding by at least 5 members of the Board

that extraordinary circumstances require such action, the Board, after consultation with the appropriate committees of the Congress, may impose, with respect to any liability of depository institutions, reserve requirements outside the limitations as to ratios and as to types of liabilities otherwise prescribed by paragraph (2) for a period not exceeding 180 days, and for further periods not exceeding 180 days each by affirmative action by at least 5 members of the Board in each instance. The Board shall promptly transmit to the Congress a report of any exercise of its authority under this paragraph and the reasons for such exercise of authority.

Report to Congress.

"(4) SUPPLEMENTAL RESERVES.—(A) The Board may, upon the affirmative vote of not less than 5 members, impose a supplemental reserve requirement on every depository institution of not more than 4 per centum of its total transaction accounts. Such supplemental reserve requirement may be imposed only if—

"(i) the sole purpose of such requirement is to increase the amount of reserves maintained to a level essential for the conduct of monetary policy;

"(ii) such requirement is not imposed for the purpose of reducing the cost burdens resulting from the imposition of the reserve requirements pursuant to paragraph (2);

"(iii) such requirement is not imposed for the purpose of increasing the amount of balances needed for clearing purposes; and

"(iv) on the date on which the supplemental reserve requirement is imposed, the total amount of reserves required pursuant to paragraph (2) is not less than the amount of reserves that would be required if the initial ratios specified in paragraph (2) were in effect.

"(B) The Board may require the supplemental reserve authorized under subparagraph (A) only after consultation with the Board of Directors of the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board, and the National Credit Union Administration Board. The Board shall promptly transmit to the Congress a report with respect to any exercise of its authority to require supplemental reserves under subparagraph (A) and such report shall state the basis for the determination to exercise such authority.

Report to Congress.

"(C) The supplemental reserve authorized under subparagraph (A) shall be maintained by the Federal Reserve banks in an Earnings Participation Account. Except as provided in subsection (c)(1)(A)(ii), such Earnings Participation Account shall receive earnings to be paid by the Federal Reserve banks during each calendar quarter at a rate not more than the rate earned on the securities portfolio of the Federal Reserve System during the previous calendar quarter. The Board may prescribe rules and regulations concerning the payment of earnings on Earnings Participation Accounts by Federal Reserve banks under this paragraph.

Earnings Participation Account.

"(D) If a supplemental reserve under subparagraph (A) has been required of depository institutions for a period of one year or more, the Board shall review and determine the need for continued maintenance of supplemental reserves and shall transmit annual reports to the Congress regarding the need, if any, for continuing the supplemental reserve.

Reports to Congress.

"(E) Any supplemental reserve imposed under subparagraph (A) shall terminate at the close of the first 90-day period after

Termination.

such requirement is imposed during which the average amount of reserves required under paragraph (2) are less than the amount of reserves which would be required during such period if the initial ratios specified in paragraph (2) were in effect.

"(5) RESERVES RELATED TO FOREIGN OBLIGATIONS OR ASSETS.—Foreign branches, subsidiaries, and international banking facilities of nonmember depository institutions shall maintain reserves to the same extent required by the Board of foreign branches, subsidiaries, and international banking facilities of member banks. In addition to any reserves otherwise required to be maintained pursuant to this subsection, any depository institution shall maintain reserves in such ratios as the Board may prescribe against—

"(A) net balances owed by domestic offices of such depository institution in the United States to its directly related foreign offices and to foreign offices of nonrelated depository institutions;

"(B) loans to United States residents made by overseas offices of such depository institution if such depository institution has one or more offices in the United States; and

"(C) assets (including participations) held by foreign offices of a depository institution in the United States which were acquired from its domestic offices.

"(6) EXEMPTION FOR CERTAIN DEPOSITS.—The requirements imposed under paragraph (2) shall not apply to deposits payable only outside the States of the United States and the District of Columbia, except that nothing in this subsection limits the authority of the Board to impose conditions and requirements on member banks under section 25 of this Act or the authority of the Board under section 7 of the International Banking Act of 1978 (12 U.S.C. 3105).

12 USC 601-604a.

"(7) DISCOUNT AND BORROWING.—Any depository institution in which transaction accounts or nonpersonal time deposits are held shall be entitled to the same discount and borrowing privileges as member banks. In the administration of discount and borrowing privileges, the Board and the Federal Reserve banks shall take into consideration the special needs of savings and other depository institutions for access to discount and borrowing facilities consistent with their long-term asset portfolios and the sensitivity of such institutions to trends in the national money markets.

Reserves.

"(8) TRANSITIONAL ADJUSTMENTS.—

"(A) Any depository institution required to maintain reserves under this subsection which was engaged in business on July 1, 1979, but was not a member of the Federal Reserve System on or after that date, shall maintain reserves against its deposits during the first twelve-month period following the effective date of this paragraph in amounts equal to one-eighth of those otherwise required by this subsection, during the second such twelve-month period in amounts equal to one-fourth of those otherwise required, during the third such twelve-month period in amounts equal to three-eighths of those otherwise required, during the fourth twelve-month period in amounts equal to one-half of those otherwise required, and during the fifth twelve-month period in amounts equal to five-eighths of those otherwise required, during the sixth twelve-month period in amounts equal to three-fourths of those otherwise required, and during the

seventh twelve-month period in amounts equal to seven-eighths of those otherwise required. This subparagraph does not apply to any category of deposits or accounts which are first authorized pursuant to Federal law in any State after April 1, 1980.

"(B) With respect to any bank which was a member of the Federal Reserve System during the entire period beginning on July 1, 1979, and ending on the effective date of the Monetary Control Act of 1980, the amount of required reserves imposed pursuant to this subsection on and after the effective date of such Act that exceeds the amount of reserves which would have been required of such bank if the reserve ratios in effect during the reserve computation period immediately preceding such effective date were applied may, at the discretion of the Board and in accordance with such rules and regulations as it may adopt, be reduced by 75 per centum during the first year which begins after such effective date, 50 per centum during the second year, and 25 per centum during the third year. *Ante*, p. 132.

"(C)(i) With respect to any bank which is a member of the Federal Reserve System on the effective date of the Monetary Control Act of 1980, the amount of reserves which would have been required of such bank if the reserve ratios in effect during the reserve computation period immediately preceding such effective date were applied that exceeds the amount of required reserves imposed pursuant to this subsection shall, in accordance with such rules and regulations as the Board may adopt, be reduced by 25 per centum during the first year which begins after such effective date, 50 per centum during the second year, and 75 per centum during the third year.

"(ii) If a bank becomes a member bank during the four-year period beginning on the effective date of the Monetary Control Act of 1980, and if the amount of reserves which would have been required of such bank, determined as if the reserve ratios in effect during the reserve computation period immediately preceding such effective date were applied, and as if such bank had been a member during such period, exceeds the amount of reserves required pursuant to this subsection, the amount of reserves required to be maintained by such bank beginning on the date on which such bank becomes a member of the Federal Reserve System shall be the amount of reserves which would have been required of such bank if it had been a member on the day before such effective date, except that the amount of such excess shall, in accordance with such rules and regulations as the Board may adopt, be reduced by 25 per centum during the first year which begins after such effective date, 50 per centum during the second year, and 75 per centum during the third year.

"(D)(i) Any bank which was a member bank on July 1, 1979, and which withdraws from membership in the Federal Reserve System during the period beginning on July 1, 1979, and ending on the day before the date of enactment of the Depository Institutions Deregulation and Monetary Control Act of 1980, shall maintain reserves beginning on such date of enactment in an amount equal to the amount of reserves it would have been required to maintain if it had been a member bank on such date of enactment. After such date of *Ante*, p. 132.

enactment, any such bank shall maintain reserves in the same amounts as member banks are required to maintain under this subsection, pursuant to subparagraphs (B) and (C)(i).

"(ii) Any bank which withdraws from membership in the Federal Reserve System on or after the date of enactment of the Depository Institutions Deregulation and Monetary Control Act of 1980 shall maintain reserves in the same amount as member banks are required to maintain under this subsection, pursuant to subparagraphs (B) and (C)(i).

Ante, p. 132.

"(E) This subparagraph applies to any depository institution which was engaged in business on August 1, 1978, as a depository institution organized under the laws of a State, which was not a member of the Federal Reserve System on that date, and the principal office of which was outside the continental limits of the United States on that date and has remained outside the continental limits of the United States ever since. Such a depository institution shall not be required to maintain reserves against its deposits pursuant to this subsection until the first day of the sixth calendar year which begins after the effective date of the Monetary Control Act of 1980. Such a depository institution shall maintain reserves against its deposits during the sixth calendar year which begins after such effective date in an amount equal to one-eighth of that otherwise required by paragraph (2), during the seventh such year in an amount equal to one-fourth of that otherwise required, during the eighth such year in an amount equal to three-eighths of that otherwise required, during the ninth such year in an amount equal to one-half of that otherwise required, during the tenth such year in an amount equal to five-eighths of that otherwise required, during the eleventh such year in an amount equal to three-fourths of that otherwise required, and during the twelfth such year in an amount equal to seven-eighths of that otherwise required.

"(9) EXEMPTION.—This subsection shall not apply with respect to any financial institution which—

"(A) is organized solely to do business with other financial institutions;

"(B) is owned primarily by the financial institutions with which it does business; and

"(C) does not do business with the general public.

"(10) WAIVERS.—In individual cases, where a Federal supervisory authority waives a liquidity requirement, or waives the penalty for failing to satisfy a liquidity requirement, the Board shall waive the reserve requirement, or waive the penalty for failing to satisfy a reserve requirement, imposed pursuant to this subsection for the depository institution involved when requested by the Federal supervisory authority involved.".

FORM OF RESERVES

SEC. 104. (a) Section 19(c) of the Federal Reserve Act (12 U.S.C. 461) is amended to read as follows:

"(c)(1) Reserves held by a depository institution to meet the requirements imposed pursuant to subsection (b) shall, subject to such rules and regulations as the Board shall prescribe, be in the form of—

"(A) balances maintained for such purposes by such depository institution in the Federal Reserve bank of which it is a member or at which it maintains an account, except that (i) the Board may, by regulation or order, permit depository institutions to maintain all or a portion of their required reserves in the form of vault cash, except that any portion so permitted shall be identical for all depository institutions, and (ii) vault cash may be used to satisfy any supplemental reserve requirement imposed pursuant to subsection (b)(4), except that all such vault cash shall be excluded from any computation of earnings pursuant to subsection (b)(4)(C); and Vault cash.

"(B) balances maintained by a depository institution which is not a member bank in a depository institution which maintains required reserve balances at a Federal Reserve bank, in a Federal Home Loan Bank, or in the National Credit Union Administration Central Liquidity Facility, if such depository institution, Federal Home Loan Bank, or National Credit Union Administration Central Liquidity Facility maintains such funds in the form of balances in a Federal Reserve bank of which it is a member or at which it maintains an account. Balances received by a depository institution from a second depository institution and used to satisfy the reserve requirement imposed on such second depository institution by this section shall not be subject to the reserve requirements of this section imposed on such first depository institution, and shall not be subject to assessments or reserves imposed on such first depository institution pursuant to section 7 of the Federal Deposit Insurance Act (12 U.S.C. 1817), section 404 of the National Housing Act (12 U.S.C. 1727), or section 202 of the Federal Credit Union Act (12 U.S.C. 1782).

"(2) The balances maintained to meet the reserve requirements of subsection (b) by a depository institution in a Federal Reserve bank or passed through a Federal Home Loan Bank or the National Credit Union Administration Central Liquidity Facility or another depository institution to a Federal Reserve bank may be used to satisfy liquidity requirements which may be imposed under other provisions of Federal or State law.". Liquidity requirements.

(b) The first sentence of section 5A(b)(1) of the Federal Home Loan Bank Act (12 U.S.C. 1425a(b)) is amended—

(1) by striking out "and" before "(D)"; and

(2) by inserting before the period at the end thereof the following: "; and (E) balances maintained in a Federal Reserve bank or passed through a Federal Home Loan Bank or another depository institution to a Federal Reserve bank pursuant to the Federal Reserve Act".

12 USC 226.

MISCELLANEOUS AMENDMENTS

SEC. 105. (a) The first paragraph of section 13 of the Federal Reserve Act (12 U.S.C. 342) is amended—

(1) by inserting "or other depository institutions" after "member banks";

(2) by inserting "or other items" after "payable upon presentation" the first and third place it appears therein;

(3) by inserting "or other items" after "payable upon presentation within its district";

(4) by inserting "or other depository institution" after "nonmember bank or trust company" each place it appears therein;

(5) by striking out "sufficient to offset the items in transit held for its account by the Federal reserve bank" and inserting in lieu thereof "in such amount as the Board determines taking into account items in transit, services provided by the Federal Reserve bank, and other factors as the Board may deem appropriate"; and

(6) by inserting "or other depository institution" after "prohibiting a member or nonmember bank".

(b)(1) The second paragraph of section 16 of the Federal Reserve Act (12 U.S.C. 412) is amended—

(A) by inserting before the period at the end of the third sentence the following: ", or assets that Federal Reserve banks may purchase or hold under section 14 of this Act"; and

12 USC 353–359, 348a.

(B) by adding at the end thereof the following: "Collateral shall not be required for Federal Reserve notes which are held in the vaults of Federal Reserve banks.".

(2) Section 14(b)(1) of the Federal Reserve Act (12 U.S.C. 355), as such section is in effect on the effective date of this title and as it will be in effect on June 1, 1981, is amended by inserting after "reclamation districts," the following: "and obligations of, or fully guaranteed as to principal and interest by, a foreign government or agency thereof,".

(c) The thirteenth paragraph of section 16 of the Federal Reserve Act (12 U.S.C. 360) is amended—

(1) by striking out "member banks" each place it appears therein and inserting in lieu thereof "depository institutions";

(2) by striking out "member bank" each place it appears therein and inserting in lieu thereof "depository institution"; and

(3) by inserting after "checks" each place it appears therein, the following: "and other items, including negotiable orders of withdrawal and share drafts".

(d) The fourteenth paragraph of section 16 of the Federal Reserve Act (12 U.S.C. 248(o)) is amended by striking out "its member banks" and inserting in lieu thereof "depository institutions".

(e) The first sentence of section 19(e) of the Federal Reserve Act (12 U.S.C. 463) is amended to read as follows: "No member bank shall keep on deposit with any depository institution which is not authorized to have access to Federal Reserve advances under section 10(b) of this Act a sum in excess of 10 per centum of its own paid-up capital and surplus.".

12 USC 347b.

(f) The last subsection of section 19 of the Federal Reserve Act (12 U.S.C. 505) is amended by striking out "(j)(1)" and inserting in lieu thereof "(l)(1)".

ABOLITION OF PENALTY RATE

12 USC 347b.

SEC. 106. Section 10(b) of the Federal Reserve Act (12 U.S.C. 374b) is amended by striking out the second sentence of the first paragraph.

PRICING OF SERVICES

SEC. 107. The Federal Reserve Act is amended by inserting after section 11 the following new section:

"PRICING OF SERVICES

12 USC 248a.

Ante, p. 132.

"SEC. 11A. (a) Not later than the first day of the sixth month after the date of enactment of the Monetary Control Act of 1980, the Board shall publish for public comment a set of pricing principles in

accordance with this section and a proposed schedule of fees based upon those principles for Federal Reserve bank services to depository institutions, and not later than the first day of the eighteenth month after the date of enactment of the Monetary Control Act of 1980, the Board shall begin to put into effect a schedule of fees for such services which is based on those principles.

Ante, p. 132.

"(b) The services which shall be covered by the schedule of fees under subsection (a) are—

"(1) currency and coin services;

"(2) check clearing and collection services;

"(3) wire transfer services;

"(4) automated clearinghouse services;

"(5) settlement services;

"(6) securities safekeeping services;

"(7) Federal Reserve float; and

"(8) any new services which the Federal Reserve System offers, including but not limited to payment services to effectuate the electronic transfer of funds.

"(c) The schedule of fees prescribed pursuant to this section shall be based on the following principles:

"(1) All Federal Reserve bank services covered by the fee schedule shall be priced explicitly.

"(2) All Federal Reserve bank services covered by the fee schedule shall be available to nonmember depository institutions and such services shall be priced at the same fee schedule applicable to member banks, except that nonmembers shall be subject to any other terms, including a requirement of balances sufficient for clearing purposes, that the Board may determine are applicable to member banks.

"(3) Over the long run, fees shall be established on the basis of all direct and indirect costs actually incurred in providing the Federal Reserve services priced, including interest on items credited prior to actual collection, overhead, and an allocation of imputed costs which takes into account the taxes that would have been paid and the return on capital that would have been provided had the services been furnished by a private business firm, except that the pricing principles shall give due regard to competitive factors and the provision of an adequate level of such services nationwide.

"(4) Interest on items credited prior to collection shall be charged at the current rate applicable in the market for Federal funds.

"(d) The Board shall require reductions in the operating budgets of the Federal Reserve banks commensurate with any actual or projected decline in the volume of services to be provided by such banks. The full amount of any savings so realized shall be paid into the United States Treasury.".

EFFECTIVE DATES

SEC. 108. This title shall take effect on the first day of the sixth month which begins after the date of the enactment of this title, except that the amendments regarding sections 19(b)(7) and 19(b)(8)(D) of the Federal Reserve Act shall take effect on the date of enactment of this title.

12 USC 248 note.

Ante, p. 133.

Depository Institutions Deregulation Act of 1980.

TITLE II—DEPOSITORY INSTITUTIONS DEREGULATION

SHORT TITLE

12 USC 3501 note.

SEC. 201. This title may be cited as the "Depository Institutions Deregulation Act of 1980".

FINDINGS AND PURPOSE

12 USC 3501.

SEC. 202. (a) The Congress hereby finds that—

(1) limitations on the interest rates which are payable on deposits and accounts discourage persons from saving money, create inequities for depositors, impede the ability of depository institutions to compete for funds, and have not achieved their purpose of providing an even flow of funds for home mortgage lending; and

(2) all depositors, and particularly those with modest savings, are entitled to receive a market rate of return on their savings as soon as it is economically feasible for depository institutions to pay such rate.

(b) It is the purpose of this title to provide for the orderly phase-out and the ultimate elimination of the limitations on the maximum rates of interest and dividends which may be paid on deposits and accounts by depository institutions by extending the authority to impose such limitations for 6 years, subject to specific standards designed to ensure a phase-out of such limitations to market rates of interest.

ESTABLISHMENT AND AUTHORITY OF COMMITTEE

Depository Institutions Deregulation Committee.
12 USC 3502.

SEC. 203. (a) The authorities conferred by section 19(j) of the Federal Reserve Act (12 U.S.C. 371b), section 18(g) of the Federal Deposit Insurance Act (12 U.S.C. 1828(g)), and section 5B(a) of the Federal Home Loan Bank Act (12 U.S.C. 1425b(a)) or by any other provision of Federal law, other than section 117 of the Federal Credit Union Act (12 U.S.C. 1763), to prescribe rules governing the payment of interest and dividends and the establishment of classes of deposits or accounts, including limitations on the maximum rates of interest and dividends which may be paid on deposits and accounts, and the authority conferred by the provisions of section 102 of Public Law 94-200 (12 U.S.C. 461 note) are hereby transferred to the Depository Institutions Deregulation Committee (hereinafter in this title referred to as the "Deregulation Committee").

Members.

(b) The Deregulation Committee shall consist of the Secretary of the Treasury, the Chairman of the Board of Governors of the Federal Reserve System, the Chairman of the Board of Directors of the Federal Deposit Insurance Corporation, the Chairman of the Federal Home Loan Bank Board, and the Chairman of the National Credit Union Administration Board, who shall be voting members, and the Comptroller of the Currency who shall be a nonvoting member of the Deregulation Committee. The Deregulation Committee shall hold public meetings at least quarterly. All meetings of the Deregulation Committee shall be conducted in conformity with the provisions of section 552b of title 5, United States Code. The Deregulation Committee may not take any action unless such action is approved by a majority vote of the voting members of the Deregulation Committee.

Delegation of authorities, prohibition.

(c) The authorities conferred by this title on the Deregulation Committee and its members may not be delegated.

DIRECTIVE TO THE COMMITTEE

SEC. 204. (a) The Deregulation Committee shall, by regulation, exercise the authorities transferred by section 203 to provide for the orderly phase-out and the ultimate elimination of the limitations on the maximum rates of interest and dividends which may be paid on deposits and accounts as rapidly as economic conditions warrant. The phase-out of such limitations may be achieved by the Deregulation Committee by the gradual increase in such limitations applicable to all existing categories of accounts, the complete elimination of the limitations applicable to particular categories of accounts, the creation of new categories of accounts not subject to limitations or with limitations set at current market rates, any combination of the above methods, or any other method. Regulation. 12 USC 3503.

(b) The Deregulation Committee shall work toward providing all depositors with a market rate of return on their savings with due regard for the safety and soundness of depository institutions. Pursuant to the authority granted by this title, the Deregulation Committee shall increase all limitations on the maximum rates of interest and dividends which may be paid on deposits and accounts to market rates as soon as feasible, except that the Deregulation Committee shall not increase such limitations above market rates during the six-year period beginning on the date of enactment of this title.

TARGETS

SEC. 205. (a) In order to assist the Deregulation Committee in establishing the limitations on the maximum rates of interest and dividends which may be paid on all deposits and accounts at market rates as soon as feasible and in order to provide maximum assurance that interest rate controls will be phased-out during the 6-year period following the date of enactment of this title, the Deregulation Committee shall vote, not later than 18 months after such date of enactment, on whether to increase the limitations on the maximum rates applicable to passbook and similar savings accounts by at least one-fourth of one percentage point during such 18-month period, and shall vote, not later than the end of each of the third, fourth, fifth, and sixth years after such date of enactment, on whether to increase the limitations on the maximum rates applicable to all categories of deposits and accounts by at least one-half of one percentage point. 12 USC 3504.

(b) The Deregulation Committee may, consistent with the purposes of this title, adjust the limitations on the rates applicable to all categories of deposits and accounts to rates which are higher or lower than the targets set forth in this section.

REPORTS

SEC. 206. Each member of the Deregulation Committee shall separately report to the Congress annually after the date of enactment of this Act regarding the economic viability of depository institutions. Each such report shall contain— 12 USC 3505.

(1) an assessment of whether the removal of any differential between the rates payable on deposits and accounts by banks and those payable by thrift institutions will adversely affect the housing finance market or the viability of the thrift industry;

(2) recommendations for measures which would encourage savings, provide for the equitable treatment of small savers, and ensure a steady and adequate flow of funds to thrift institutions and the housing market;

(3) findings concerning disintermediation of savings deposits from insured banks and insured thrift institutions to uninsured money market innovators paying market rates to savers; and

(4) recommendations for such legislative and administrative actions as the member involved considers necessary to maintain the economic viability of depository institutions.

TERMINATIONS

Repeals.
12 USC 3506.

SEC. 207. (a) Section 7 of Public Law 89-597 (12 U.S.C. 461 note) is hereby repealed.

(b) Effective upon the expiration of 6 years after the date of enactment of this Act—

(1) section 102 of Public Law 94-200 (12 U.S.C. 461 note) is hereby repealed;

(2) the second sentence of section 18(g)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1828(g)(1)) is amended by striking out "payment and" and by striking out ", including limitations on the rates of interest and dividends that may be paid";

(3) the third, fifth, and eighth sentences of section 18(g)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1828(g)(1)) are hereby repealed;

(4) the first sentence of section 19(j) of the Federal Reserve Act (12 U.S.C. 371b) is amended by striking out "payment and" and by striking out ", including limitations on the rates of interest which may be paid";

(5) the second sentence of section 19(j) of the Federal Reserve Act (12 U.S.C. 371b) is hereby repealed;

(6) the third sentence of section 19(j) of the Federal Reserve Act (12 U.S.C. 371b) is amended by striking out "No member bank" and all that follows through "*Provided*, That, the" and inserting in lieu thereof "The";

(7) the first sentence of section 5B(a) of the Federal Home Loan Bank Act (12 U.S.C. 1425b(a)) is amended by striking out "payment and" and by striking out ", including limitations on the rates of interest or dividends on deposits, shares, or withdrawable accounts that may be paid";

(8) the second and fourth sentences of section 5B(a) of the Federal Home Loan Bank Act (12 U.S.C. 1425b(a)) are hereby repealed;

(9) the third sentence of section 5B(a) of the Federal Home Loan Bank Act (12 U.S.C. 1425b(a)) is amended by striking out ", including specifically the authority" and all that follows through "of that authority";

(10) section 117 of the Federal Credit Union Act (12 U.S.C. 1763) is amended by striking out ", pursuant to such regulations as may be issued by the Board,";

Post, p. 161.

(11) section 501(a)(2) of the Depository Institutions Deregulation and Monetary Control Act of 1980 is amended by striking out "(A)" and by striking out subparagraph (B);

Post, p. 168.

(12) section 527 of the Depository Institutions Deregulation and Monetary Control Act of 1980 is amended by striking out ", except as provided in section 501(a)(2)(B)"; and

(13) Public Law 93-123 (12 U.S.C. 371b note) is hereby repealed.

ENFORCEMENT

12 USC 3507.

SEC. 208. (a) Compliance with the regulations issued by the Deregulation Committee under this title shall be enforced under—

(1) section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818), in the case of—

(A) national banks, by the Comptroller of the Currency;

(B) member banks of the Federal Reserve System (other than national banks), by the Board of Governors of the Federal Reserve System;

(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System), by the Board of Directors of the Federal Deposit Insurance Corporation; and

(2) section 5(d) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(d)), section 407 of the National Housing Act (12 U.S.C. 1730), and section 17 of the Federal Home Loan Bank Act, by the Federal Home Loan Bank Board (acting directly or through the Federal Savings and Loan Insurance Corporation), in the case of any institution subject to any of those provisions. 12 USC 1437.

(b) For the purpose of the exercise by any agency referred to in subsection (a) of its powers under any Act referred to in that subsection, a violation of any regulation prescribed under this title shall be deemed to be a violation of a regulation prescribed under the Act involved. In addition to its powers under any provision of law specifically referred to in subsection (a), each of the agencies referred to in such subsection may exercise, for the purpose of enforcing compliance with any regulation prescribed under this title, any other authority conferred on it by law.

TRANSITIONAL PROVISIONS

SEC. 209. All rules and regulations issued pursuant to any authority transferred by section 203 of this title shall remain in effect until repealed, amended, or superseded by a regulation of the Deregulation Committee. 12 USC 3508.

TERMINATION OF AUTHORITY

SEC. 210. Upon the expiration of six years after the date of the enactment of this Act, all authorities transferred to the Deregulation Committee by this title shall cease to be effective and the Deregulation Committee shall cease to exist. 12 USC 3509.

TITLE III—CONSUMER CHECKING ACCOUNT EQUITY ACT OF 1980

Consumer Checking Account Equity Act of 1980.

SHORT TITLE

SEC. 301. This title may be cited as the "Consumer Checking Account Equity Act of 1980". 12 USC 226 note.

AUTOMATIC TRANSFER ACCOUNTS

SEC. 302. (a) Section 19(i) of the Federal Reserve Act (12 U.S.C. 371a) is amended by adding at the end thereof the following new sentence: "Notwithstanding any other provision of this section, a member bank may permit withdrawals to be made automatically from a savings deposit that consists only of funds in which the entire beneficial interest is held by one or more individuals through payment to the bank itself or through transfer of credit to a demand deposit or other account pursuant to written authorization from the depositor to make such payments or transfers in connection with checks or drafts

drawn upon the bank, pursuant to terms and conditions prescribed by the Board.".

(b) Section 18(g) of the Federal Deposit Insurance Act (12 U.S.C. 1828(g)) is amended by inserting "(1)" after "(g)" and by adding at the end thereof the following new paragraph:

"(2) Notwithstanding the provisions of paragraph (1), an insured nonmember bank may permit withdrawals to be made automatically from a savings deposit that consists only of funds in which the entire beneficial interest is held by one or more individuals through payment to the bank itself or through transfer of credit to a demand deposit or other account pursuant to written authorization from the depositor to make such payments or transfers in connection with checks or drafts drawn upon the bank, pursuant to terms and conditions prescribed by the Board of Directors.".

NOW ACCOUNTS

SEC. 303. Section 2(a) of Public Law 93-100 (12 U.S.C. 1832(a)) is amended to read as follows:

"(a)(1) Notwithstanding any other provision of law but subject to paragraph (2), a depository institution is authorized to permit the owner of a deposit or account on which interest or dividends are paid to make withdrawals by negotiable or transferable instruments for the purpose of making transfers to third parties.

"(2) Paragraph (1) shall apply only with respect to deposits or accounts which consist solely of funds in which the entire beneficial interest is held by one or more individuals or by an organization which is operated primarily for religious, philanthropic, charitable, educational, or other similar purposes and which is not operated for profit.".

REMOTE SERVICE UNITS

SEC. 304. Section 5(b)(1) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(b)(1)) is amended by adding at the end thereof the following new sentence: "This section does not prohibit the establishment of remote service units by associations for the purpose of crediting savings accounts, debiting such accounts, crediting payments on loans, and the disposition of related financial transactions, as provided in regulations prescribed by the Board.".

SHARE DRAFTS

SEC. 305. (a) Section 101(5) of the Federal Credit Union Act (12 U.S.C. 1752(5)) is amended—

(1) by striking out "or share certificate" each place it appears therein and inserting in lieu thereof ", share certificate, or share draft account"; and

(2) by striking out "or 'share certificate'" and inserting in lieu thereof ", 'share certificate', or 'share draft'".

(b) Section 107(6) of the Federal Credit Union Act (12 U.S.C. 1757(6)) is amended by striking out "credit unions serving" and all that follows through the end thereof and inserting in lieu thereof "credit unions serving predominately low-income members (as defined by the Board) payments on—

"(A) shares which may be issued at varying dividend rates;

"(B) share certificates which may be issued at varying dividend rates and maturities; and

12 USC 1785.

"(C) share draft accounts authorized under section 205(f);

subject to such terms, rates, and conditions as may be established by the board of directors, within limitations prescribed by the Board.".

(c) Section 117 of the Federal Credit Union Act (12 U.S.C. 1763) is amended—

(1) in the first sentence—

(A) by striking out "and" the second place it appears therein and inserting in lieu thereof a comma; and

(B) by inserting ", and at different rates on different types of share draft accounts" before the period at the end thereof; and

(2) in the second sentence, by striking out "and share certificates" and inserting in lieu thereof ", share certificates, and share draft accounts".

(d) Section 205 of the Federal Credit Union Act (12 U.S.C. 1785) is amended by adding at the end thereof the following new subsection:

"(f)(1) Every insured credit union is authorized to maintain, and make loans with respect to, share draft accounts in accordance with rules and regulations prescribed by the Board. Except as provided in paragraph (2), an insured credit union may pay dividends on share draft accounts and may permit the owners of such share draft accounts to make withdrawals by negotiable or transferable instruments or other orders for the purpose of making transfers to third parties.

"(2) Paragraph (1) shall apply only with respect to share draft accounts in which the entire beneficial interest is held by one or more individuals or members or by an organization which is operated primarily for religious, philanthropic, charitable, educational, or other similar purposes and which is not operated for profit.".

EFFECTIVE DATES

SEC. 306. The amendments made by sections 302, 304, and 305 of this title shall take effect at the close of March 31, 1980, and the amendments made by section 303 of this title shall take effect on December 31, 1980. 12 USC 371a note.

REPEAL OF EXISTING LAW

SEC. 307. At the close of March 31, 1980, the amendments made by sections 101 through 103 of Public Law 96-161 are hereby repealed. 12 USC 371a, 1464, 1752, 1757, 1828.

DEPOSIT INSURANCE

SEC. 308. (a)(1) The following provisions of the Federal Deposit Insurance Act are amended by striking out "$40,000" each place it appears therein and inserting in lieu thereof "$100,000": 12 USC 1811 note.

(A) The first sentence of section 3(m) (12 U.S.C. 1813(m)).

(B) The first sentence of section 7(i) (12 U.S.C. 1817(i)).

(C) The last sentence of section 11(a)(1) (12 U.S.C. 1821(a)(1)).

(D) The fifth sentence of section 11(i) (12 U.S.C. 1821(i)).

(2) The amendments made by this subsection are not applicable to any claim arising out of the closing of a bank prior to the effective date of this section. Exemption. 12 USC 1813 note.

(b)(1) The following provisions of title IV of the National Housing Act are amended by striking out "$40,000" each place it appears therein and inserting in lieu thereof "$100,000": 12 USC 1724.

(A) Section 401(b) (12 U.S.C. 1724(b)).

(B) Section 405(a) (12 U.S.C. 1728(a)).

(2) The amendments made by this subsection are not applicable to any claim arising out of a default, as defined in section 401(d) of the Exemption. 12 USC 1724 note.

National Housing Act (12 U.S.C. 1724(d)), where the appointment of a conservator, receiver, or other legal custodian as set forth in that section became effective prior to the effective date of this section.

(c)(1) The second sentence of section 207(c) of the Federal Credit Union Act (12 U.S.C. 1787(c)) is amended by striking out "$40,000" and inserting in lieu thereof "$100,000".

Exemption. 12 USC 1787 note.

(2) The amendment made by this subsection is not applicable to any claim arising out of the closing of a credit union for liquidation on account of bankruptcy or insolvency pursuant to section 207 of the Federal Credit Union Act (12 U.S.C. 1787) prior to the effective date of this section.

(d) Section 7(d) of the Federal Deposit Insurance Act (12 U.S.C. 1817(d)) is amended—

(1) in the first sentence—

(A) by inserting "(1)" after "(d)";

(B) by striking out "December 31, 1961" and inserting in lieu thereof "December 31, 1980"; and

(C) by striking out "33⅓ per centum" and inserting in lieu thereof "40 per centum"; and

(2) by adding at the end thereof the following new paragraph:

"(2) Notwithstanding any other provision of this subsection—

"(A) whenever the Board of Directors determines that the ratio of the Corporation's capital account to the estimated insured deposits is less than 1.10 per centum, the Board of Directors shall increase the per centum of net assessment income to be transferred to the Corporation's capital account by such an amount, but not to exceed 50 per centum, as it determines will result in maintaining that ratio at not less than 1.10 per centum;

"(B) whenever the Board of Directors determines that the ratio of the Corporation's capital account to the estimated insured deposits exceeds 1.25 per centum, the Board of Directors may reduce the per centum of net assessment income to be transferred to the Corporation's capital account by such an amount as it determines will result in maintaining such ratio at not less than 1.25 per centum; and

"(C) whenever the Board of Directors determines that the ratio of the Corporation's capital account to the estimated insured deposits exceeds 1.40 per centum, the Board of Directors shall reduce the per centum of net assessment income to be transferred to the Corporation's capital account by such an amount as it determines will result in maintaining that ratio at not more than 1.40 per centum.".

Effective date. 12 USC 1817 note.

(e) The amendments made by this section shall take effect on the date of enactment of this Act.

CREDIT UNION AMENDMENTS

SEC. 309. (a) The Federal Credit Union Act is amended—

12 USC 1757.

(1) in section 107(5)(A)(i)—

(A) by inserting ", including an individual cooperative unit," immediately following "dwelling"; and

(B) by inserting "(except that a loan on an individual cooperative unit shall be adequately secured as defined by the Board)" after "thirty years";

12 USC 1795d.

(2) by striking out section 305(b)(3) and inserting in lieu thereof the following:

"(3) shall share in dividend distributions at rates determined by the Board. However, rates on the required capital stock shall be without preference; and";

(3) by striking out ", to the extent or in such amounts as are provided in advance in appropriation Acts" in section 307(15); and 12 USC 1795f.

(4) in title III, as so redesignated by subsection (b)(1), by striking out "Administrator" each place it appears and inserting in lieu thereof "Board". 12 USC 1795b–1795g.

(b) The Federal Credit Union Act is amended— 12 USC 1751.

(1) by striking out the heading of subchapter III of such Act and inserting in lieu thereof "TITLE III—CENTRAL LIQUIDITY FACILITY"; 12 USC 1795.

(2) in title III, as so redesignated by paragraph (1), by striking out "subchapter" each place it appears therein and inserting in lieu thereof "title"; and 12 USC 1795a, 1795c, 1795f, 1795g.

(3) in section 307(3), by striking out "subchapters I and II of this chapter" and inserting in lieu thereof "titles I and II of this Act". 12 USC 1795f.

INTEREST RATES ON CREDIT UNION LOANS

SEC. 310. Section 107(5)(A)(vi) of the Federal Credit Union Act (12 U.S.C. 1757(5)(A)(vi)) is amended to read as follows:

"(vi) the rate of interest may not exceed 15 per centum per annum on the unpaid balance inclusive of all finance charges, except that the Board may establish—

"(I) after consultation with the appropriate committees of the Congress, the Department of Treasury, and the Federal financial institution regulatory agencies, an interest rate ceiling exceeding such 15 per centum per annum rate, for periods not to exceed 18 months, if it determines that money market interest rates have risen over the preceding six-month period and that prevailing interest rate levels threaten the safety and soundness of individual credit unions as evidenced by adverse trends in liquidity, capital, earnings, and growth; and

"(II) a higher interest rate ceiling for Agent members of the Central Liquidity Facility in carrying out the provisions of title III for such periods as the Board may authorize;". 12 USC 1795.

FEDERAL HOME LOAN BANK SETTLEMENT AND PROCESSING OF DRAFTS

SEC. 311. Section 11(e) of the Federal Home Loan Bank Act (12 U.S.C. 1431(e)) is amended—

(1) by inserting "(1)" after "(e)"; and

(2) by adding at the end thereof the following new paragraph:

"(2)(A) The Board may, subject to such rules and regulations, including definitions of terms used in this paragraph, as the Board shall from time to time prescribe, authorize Federal Home Loan Banks to be drawees of, and to engage in, or be agents or intermediaries for, or otherwise participate or assist in, the collection and settlement of (including presentment, clearing, and payment of, and remitting for), checks, drafts, or any other negotiable or nonnegotiable items or instruments of payment drawn on or issued by members of any Federal Home Loan Bank or by institutions which are eligible to make application to become members pursuant to section 4, and to 12 USC 1424.

have such incidental powers as the Board shall find necessary for the exercise of any such authorization.

"(B) A Federal Home Loan Bank shall make charges, to be determined and regulated by the Board consistent with the principles set forth in section 11A(c) of the Federal Reserve Act, or utilize the services of, or act as agent for, or be a member of, a Federal Reserve bank, clearinghouse, or any other public or private financial institution or other agency, in the exercise of any powers or functions pursuant to this paragraph.

Ante, p. 140.

Rules and regulations.

"(C) The Board is authorized, with respect to participation in the collection and settlement of any items by Federal Home Loan Banks, and with respect to the collection and settlement (including payment by the payor institution) of items payable by Federal savings and loan associations and Federal mutual savings banks, to prescribe rules and regulations regarding the rights, powers, responsibilities, duties, and liabilities, including standards relating thereto, of such Banks, associations, or banks and other parties to any such items or their collection and settlement. In prescribing such rules and regulations, the Board may adopt or apply, in whole or in part, general banking usage and practices, and, in instances or respects in which they would otherwise not be applicable, Federal Reserve regulations and operating letters, the Uniform Commercial Code, and clearinghouse rules.".

CENTRAL LIQUIDITY FACILITY SETTLEMENT AND PROCESSING OF SHARE DRAFTS

SEC. 312. Section 307 of the Federal Credit Union Act (12 U.S.C. 1795f) is amended—

(1) by inserting "(a)" after "SEC. 307."; and

(2) by adding at the end thereof the following:

"(b)(1) The Board may authorize the Central Liquidity Facility or its Agent members, subject to such rules and regulations, including definitions of terms used in this subsection, as the Board shall from time to time prescribe, to be drawees of, and to engage in, or be agents or intermediaries for, or otherwise participate or assist in, the collection and settlement of (including presentment, clearing, and payment of, and remitting for), checks, share drafts, or any other negotiable or nonnegotiable items or instruments of payment drawn on or issued by members of the Central Liquidity Facility, any of its Agent members, or any other credit union eligible to become a member of the Central Liquidity Facility, and to have such incidental powers as the Board shall find necessary for the exercise of any such authorization.

"(2) The Central Liquidity Facility or its Agent members shall make charges, to be determined and regulated by the Board consistent with the principles set forth in section 11A(c) of the Federal Reserve Act, or utilize the services of, or act as agent for, or be a member of, a Federal Reserve bank, clearinghouse, or any other public or private financial institution or other agency, in the exercise of any powers or functions pursuant to this subsection.

Ante, p. 140.

Rules and regulations.

"(3) The Board is authorized, with respect to participation in the collection and settlement of any items by the Central Liquidity Facility or by its Agent members, and with respect to the collection and settlement (including payment by the payor institution) of items payable by members of the Central Liquidity Facility or of any of its Agent members, to prescribe rules and regulations regarding the rights, powers, responsibilities, duties, and liabilities, including standards relating thereto, of such entities and other parties to any

such items or their collection and settlement. In prescribing such rules and regulations, the Board may adopt or apply, in whole or in part, general banking usage and practices, and, in instances or respects in which they would otherwise not be applicable, Federal Reserve regulations and operating letters, the Uniform Commercial Code, and clearinghouse rules.".

ALASKA USA FEDERAL CREDIT UNION

SEC. 313. Any person who is a member of the Alaska USA Federal Credit Union prior to any termination date which is contained in section 5 of the charter of such credit union and which would otherwise apply to such person may continue to be a member of such credit union on and after such date until the expiration of two years after the date of the enactment of this Act. For purposes of this section, the term "member of the Alaska USA Federal Credit Union" means any person who has an account at such credit union.

TITLE IV—POWERS OF THRIFT INSTITUTIONS AND MISCELLANEOUS PROVISIONS

FEDERAL SAVINGS AND LOAN INVESTMENT AUTHORITY

SEC. 401. Section 5(c) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(c)) is amended to read as follows:

"(c) An association may to such extent, and subject to such rules and regulations as the Board may prescribe from time to time, invest in, sell, or otherwise deal with the following loans, or other investments:

"(1) Loans or investments without percentage of assets limitation: Without limitation as a percentage of assets, the following are permitted:

"(A) ACCOUNT LOANS.—Loans on the security of its savings accounts and loans specifically related to negotiable order-of-withdrawal accounts.

"(B) SINGLE-FAMILY AND MULTI-FAMILY MORTGAGE LOANS.—Loans on the security of liens upon residential real property in an amount which, when added to the amount unpaid upon prior mortgages, liens or encumbrances, if any, upon such real estate does not exceed the appraised value thereof, except that the amount of any such loan hereafter made shall not exceed 66⅔ per centum of the appraised value if such real estate is unimproved, 75 per centum of the appraised value if such real estate is improved by offsite improvements such as street, water, sewers, or other utilities, 75 per centum of the appraised value if such real estate is in the process of being improved by a building or buildings to be constructed or in the process of construction, or 90 per centum of the appraised value if such real estate is improved by a building or buildings. Notwithstanding the above loan-to-value ratios, the Board may permit a loan-to-value ratio in excess of 90 per centum if such real estate is improved by a building or buildings and that portion of the unpaid balance of such loan which is in excess of an amount equal to 90 per centum of such value is guaranteed or insured by a public or private mortgage insurer or in the case of any loan for the purpose of providing housing for persons of low income, as described in regulations of the Board.

"(C) UNITED STATES GOVERNMENT SECURITIES.—Investments in obligations of, or fully guaranteed as to principal and interest by, the United States.

"(D) FEDERAL HOME LOAN BANK AND FEDERAL NATIONAL MORTGAGE ASSOCIATION SECURITIES.—Investments in the stock or bonds of a Federal home loan bank or in the stock of the Federal National Mortgage Association.

"(E) FEDERAL HOME LOAN MORTGAGE CORPORATION INSTRUMENTS.—Investments in mortgages, obligations, or other securities which are or ever have been sold by the Federal Home Loan Mortgage Corporation pursuant to section 305 or 306 of the Federal Home Loan Mortgage Corporation Act.

12 USC 1454, 1455.

"(F) OTHER GOVERNMENT SECURITIES.—Investments in obligations, participations, securities, or other instruments of, or issued by, or fully guaranteed as to principal and interest by, the Federal National Mortgage Association, the Student Loan Marketing Association or the Government National Mortgage Association, or any other agency of the United States and an association may issue and sell securities which are guaranteed pursuant to section 306(g) of the National Housing Act.

12 USC 1721.

"(G) BANK DEPOSITS.—Investments in the time deposits, certificates, or accounts of any bank the deposits of which are insured by the Federal Deposit Insurance Corporation.

"(H) STATE SECURITIES.—Investments in general obligations of any State or any political subdivision thereof.

"(I) PURCHASE OF INSURED LOANS.—Purchase of loans secured by liens on improved real estate which are insured under provisions of the National Housing Act, or insured as provided in the Servicemen's Readjustment Act of 1944 or chapter 37 of title 38, United States Code.

12 USC 1701.
38 USC 1801 note.
38 USC 1801 *et seq.*

"(J) HOME IMPROVEMENT AND MANUFACTURED HOME LOANS.—Loans made for the repair, equipping, alteration, or improvement of any residential real property, and loans made for the purpose of manufactured home financing.

"(K) INSURED LOANS TO FINANCE THE PURCHASE OF FEE SIMPLE.—Loans as to which the association has the benefit of insurance under section 240 of the National Housing Act, or of a commitment or agreement therefor.

12 USC 1715z-5.

"(L) LOANS TO FINANCIAL INSTITUTIONS, BROKERS, AND DEALERS.—Loans to financial institutions with respect to which the United States or an agency or instrumentality thereof has any function of examination or supervision, or to any broker or dealer registered with the Securities and Exchange Commission, secured by loans, obligations, or investments in which the association has the statutory authority to invest directly.

"(M) LIQUIDITY INVESTMENTS.—Investments which, at the time of making, are assets eligible for inclusion toward the satisfaction of any liquidity requirement imposed by the Board pursuant to section 5A of the Federal Home Loan Bank Act, but only to the extent that the investment is permitted to be so included under regulations of the Board or is otherwise authorized.

12 USC 1425a.

"(N) INVESTMENT IN THE NATIONAL HOUSING PARTNERSHIP CORPORATION, PARTNERSHIPS, AND JOINT VENTURES.—Investments in shares of stock issued by a corporation authorized to be created pursuant to title IX of the Housing and Urban

Development Act of 1968, and investments in any partnership, limited partnership, or joint venture formed pursuant to section 907(a) or 907(c) of such Act. 42 USC 3931. 42 USC 3937.

"(O) HOUSING AND URBAN DEVELOPMENT GUARANTEED INVESTMENTS.—Loans as to which the association has the benefit of any guaranty under title IV of the Housing and Urban Development Act of 1968, under part B of the Urban Growth and New Community Development Act of 1970, or under section 802 of the Housing and Community Development Act of 1974 as in effect on or after the date of enactment of the Depository Institutions Deregulation and Monetary Control Act of 1980, or of a commitment or agreement therefor. 42 USC 3901. 42 USC 4511. 42 USC 1440, 12 USC 371, 1464. *Ante*, p. 132.

"(P) STATE HOUSING CORPORATION INVESTMENTS.—Investments in, commitments to invest in, loans to, or commitments to lend to any State housing corporation, provided that such obligations or loans are secured directly, or indirectly through an agent or fiduciary, by a first lien on improved real estate which is insured under the provisions of the National Housing Act and that in the event of default, the holder of such obligations or loans would have the right directly, or indirectly through an agent or fiduciary, to cause to be subject to the satisfaction of such obligations or loans the real estate described in the first lien or the insurance proceeds under the National Housing Act. 12 USC 1701.

"(Q) INVESTMENT COMPANIES.—An association may invest in, redeem, or hold shares or certificates in any open-end management investment company which is registered with the Securities and Exchange Commission under the Investment Company Act of 1940 and the portfolio of which is restricted by such management company's investment policy, changeable only if authorized by shareholder vote, solely to any such investments as an association by law or regulation may, without limitation as to percentage of assets, invest in, sell, redeem, hold, or otherwise deal with. The Board shall prescribe rules and regulations to implement the provisions of this subparagraph. 15 USC 80a-51. Rules and regulations.

"(2) LOANS OR INVESTMENTS LIMITED TO 20 PER CENTUM OF ASSETS.—The following loans or investments are permitted, but authority conferred in the following subparagraphs is limited to not in excess of 20 per centum of the assets of the association for each subparagraph:

"(A) COMMERCIAL REAL ESTATE LOANS.—Loans on security of first liens upon other improved real estate.

"(B) CONSUMER LOANS AND CERTAIN SECURITIES.—An association may make secured or unsecured loans for personal, family, or household purposes, and may invest in, sell, or hold commercial paper and corporate debt securities, as defined and approved by the Board.

"(3) LOANS OR INVESTMENTS LIMITED TO 5 PER CENTUM OF ASSETS.—The following loans or investments are permitted, but the authority conferred in the following subparagraphs is limited to not in excess of 5 per centum of assets of the association for each subparagraph:

"(A) EDUCATION LOANS.—Loans made for the payment of expenses of college, university, or vocational education.

"(B) COMMUNITY DEVELOPMENT INVESTMENTS.—Investments in real property and obligations secured by liens on

real property located within a geographic area or neighborhood receiving concentrated development assistance by a local government under title I of the Housing and Community Development Act of 1974, except that no investment under this subparagraph in such real property may exceed an aggregate investment of 2 per centum of the assets of the association.

42 USC 5301.

"(C) NONCONFORMING LOANS.—Loans upon the security of or respecting real property or interests therein used for primarily residential or farm purposes that do not comply with the limitations of this subsection.

"(D) CONSTRUCTION LOANS WITHOUT SECURITY.—Investments not exceeding the greater of (A) the sum of its surplus, undivided profits, and reserves or (B) 5 per centum of the assets of the association, in loans the principal purpose of which is to provide financing with respect to what is or is expected to become primarily residential real estate where (i) the association relies substantially for repayment on the borrower's general credit standing and forecast of income without other security, or (ii) the association relies on other assurances for repayment, including but not limited to a guaranty or similar obligation of a third party. Investments under this subsection shall not be included in any percentage of assets or other percentage referred to in this subsection.

"(4) OTHER LOANS AND INVESTMENTS.—The following additional loans and other investments to the extent authorized below:

"(A) BUSINESS DEVELOPMENT CREDIT CORPORATIONS.—An association whose general reserves, surplus, and undivided profits aggregate a sum in excess of 5 per centum of its withdrawable accounts is authorized to invest in, lend to, or to commit itself to lend to, any business development credit corporation incorporated in the State in which the home office of the association is located in the same manner and to the same extent as savings and loan associations chartered by such State are authorized, but the aggregate amount of such investments, loans, and commitments of any such association shall not exceed one-half of 1 per centum of the total outstanding loans of the association or $250,000, whichever is less.

"(B) SERVICE CORPORATIONS.—Investments in the capital stock, obligations, or other securities of any corporation organized under the laws of the State in which the home office of the association is located, if the entire capital stock of such corporation is available for purchase only by savings and loan associations of such State and by Federal associations having their home offices in such State, but no association may make any investment under this subparagraph if its aggregate outstanding investment under this subparagraph would exceed 3 per centum of the assets of the association, except that not less than one-half of the investment permitted under this subparagraph which exceeds one per centum of assets shall be used primarily for community, inner-city, and community development purposes.

"(C) FOREIGN ASSISTANCE, CERTAIN GUARANTEED LOANS.—(i) Loans secured by mortgages as to which the association has the benefit of insurance under title X of the National

Housing Act or of a commitment or agreement for such insurance. 12 USC 1749aa.

"(ii) Investments in housing project loans having the benefit of any guaranty under section 221 of the Foreign Assistance Act of 1961 or loans having the benefit of any guaranty under section 224 of such Act, or any commitment or agreement with respect to such loans made pursuant to either of such sections and in the share capital and capital reserve of the Inter-American Savings and Loan Bank. This authority extends to the acquisition, holding, and disposition of loans having the benefit of any guaranty under section 221 or 222 of such Act, or of any commitment or agreement for any such guaranty. 22 USC 2181. 75 Stat. 432. 22 USC 2181, 2182.

"(iii) Investments under clause (i) of this subparagraph shall not be included in any percentage of assets or other percentage referred to in this subsection. Investments under clause (ii) of this subparagraph shall not exceed, in the case of any association, 1 per centum of the assets of such association.

"(D) STATE AND LOCAL GOVERNMENT OBLIGATIONS.—An association whose general reserves, surplus, and undivided profits aggregate a sum in excess of that amount which is determined by the Board for the purpose of the third sentence of section 403(b) of the National Housing Act is authorized to invest in obligations which constitute prudent investments, as defined by the Board, of its home State and political subdivisions thereof (including any agency, corporation, or instrumentality) if (i) the proceeds of such obligations are to be used for rehabilitation, financing, or the construction of residential real estate, and (ii) the aggregate amount of all investments under this subparagraph shall not exceed the amount of the association's general reserves, surplus, and undivided profits. 12 USC 1726.

"(6) DEFINITIONS.—As used in this subsection—

"(A) the terms 'residential real property' or 'residential real estate' mean leaseholds, homes (including condominiums and cooperatives, except that in connection with loans on individual cooperative units, such loans shall be adequately secured as defined by the Board), combinations of homes and business property, other dwelling units, or combinations of dwelling units including homes and business property involving only minor or incidental business use, or property to be improved by construction of such structures;

"(B) the term 'loans' includes obligations and extensions or advances of credit; and any reference to a loan or investment includes an interest in such a loan or investment; and

"(C) the term 'State' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, the Canal Zone, Guam, American Samoa, and any territory or possession of the United States.".

CREDIT CARDS

SEC. 402. Section 5(b) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(b)) is amended by adding at the end thereof the following new paragraph: *Post*, p. 159.

"(4) An association is authorized, subject to such regulations as the Board may prescribe, to issue credit cards, extend credit in connec-

tion therewith, and otherwise engage in or participate in credit card operations.".

TRUST POWERS

SEC. 403. Section 5 of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464) is amended by adding at the end thereof the following new subsection:

"(n)(1) The Board is authorized and empowered to grant by special permit to an association applying therefor, when not in contravention of State or local law, the right to act as trustee, executor, administrator, guardian, or in any other fiduciary capacity in which State banks, trust companies, or other corporations which come into competition with associations are permitted to act under the laws of the State in which the association is located. Subject to the rules and regulations of the Board, service corporations may invest in State or federally-chartered corporations which are located in the State in which the home office of the association is located and which are engaged in trust activities.

"(2) Whenever the laws of such State authorize or permit the exercise of any or all of the foregoing powers by State banks, trust companies, or other corporations which compete with associations, the granting to and the exercise of such powers by associations shall not be deemed to be in contravention of State or local law within the meaning of this section.

"(3) Associations exercising any or all of the powers enumerated in this section shall segregate all assets held in any fiduciary capacity from the general assets of the association and shall keep a separate set of books and records showing in proper detail all transactions engaged in under authority of this section. The State banking authority involved may have access to reports of examination made by the Board insofar as such reports relate to the trust department of such association but nothing in this section shall be construed as authorizing such State banking authority to examine the books, records, and assets of such associations.

"(4) No association shall receive in its trust department deposits of current funds subject to check or the deposit of checks, drafts, bills of exchange, or other items for collection or exchange purposes. Funds deposited or held in trust by the association awaiting investment shall be carried in a separate account and shall not be used by the association in the conduct of its business unless it shall first set aside in the trust department United States bonds or other securities approved by the Board.

"(5) In the event of the failure of such association, the owners of the funds held in trust for investment shall have a lien on the bonds or other securities so set apart in addition to their claim against the estate of the association.

"(6) Whenever the laws of a State require corporations acting in a fiduciary capacity to deposit securities with the State authorities for the protection of private or court trusts, associations so acting shall be required to make similar deposits and securities so deposited shall be held for the protection of private or court trusts, as provided by the State law. Associations in such cases shall not be required to execute the bond usually required of individuals if State corporations under similar circumstances are exempt from this requirement. Associations shall have power to execute such bond when so required by the laws of the State involved.

"(7) In any case in which the laws of a State require that a corporation acting as trustee, executor, administrator, or in any capacity specified in this section, shall take an oath or make an affidavit, the president, vice president, cashier, or trust officer of such association may take the necessary oath or execute the necessary affidavit.

"(8) It shall be unlawful for any association to lend any officer, director, or employee any funds held in trust under the powers conferred by this section. Any officer, director, or employee making such loan, or to whom such loan is made, may be fined not more than $5,000, or imprisoned not more than five years, or may be both fined and imprisoned, in the discretion of the court.

"(9) In passing upon applications for permission to exercise the powers enumerated in this section, the Board may take into consideration the amount of capital and surplus of the applying association, whether or not such capital and surplus is sufficient under the circumstances of the case, the needs of the community to be served, and any other facts and circumstances that seem to it proper, and may grant or refuse the application accordingly, except that no permit shall be issued to any association having a capital and surplus less than the capital and surplus required by State law of State banks, trust companies, and corporations exercising such powers.

"(10)(A) Any association desiring to surrender its right to exercise the powers granted under this section, in order to relieve itself of the necessity of complying with the requirements of this section, or to have returned to it any securities which it may have deposited with the State authorities for the protection of private or court trusts, or for any other purpose, may file with the Board a certified copy of a resolution of its board of directors signifying such desire.

"(B) Upon receipt of such resolution, the Board, after satisfying itself that such association has been relieved in accordance with State law of all duties as trustee, executor, administrator, guardian or other fiduciary, under court, private or other appointments previously accepted under authority of this section, may in its discretion, issue to such association a certificate certifying that such association is no longer authorized to exercise the powers granted by this section.

"(C) Upon the issuance of such a certificate by the Board, such association (i) shall no longer be subject to the provisions of this section or the regulations of the Board made pursuant thereto, (ii) shall be entitled to have returned to it any securities which it may have deposited with the State authorities for the protection of private or court trusts, and (iii) shall not exercise thereafter any of the powers granted by this section without first applying for and obtaining a new permit to exercise such powers pursuant to the provisions of this section.

"(D) The Board is authorized and empowered to promulgate such regulations as it may deem necessary to enforce compliance with the provisions of this subsection and the proper exercise of the trust powers granted by this subsection. Regulations.

"(11)(A) In addition to the authority conferred by other law, if, in the opinion of the Board, an association is unlawfully or unsoundly exercising, or has unlawfully or unsoundly exercised, or has failed for a period of five consecutive years to exercise, the powers granted by this section or otherwise fails or has failed to comply with the requirements of this subsection, the Board may issue and serve upon Revocation order.

the association a notice of intent to revoke the authority of the association to exercise the powers granted by this subsection. The notice shall contain a statement of the facts constituting the alleged unlawful or unsound exercise of powers, or failure to exercise powers, or failure to comply, and shall fix a time and place at which a hearing will be held to determine whether an order revoking authority to exercise such powers should issue against the association.

Hearing.

"(B) Such hearing shall be conducted in accordance with the provisions of subsection (d)(7), and subject to judicial review as therein provided, and shall be fixed for a date not earlier than thirty days and not later than sixty days after service of such notice unless an earlier or later date is set by the Board at the request of any association so served.

"(C) Unless the association so served shall appear at the hearing by a duly authorized representative, it shall be deemed to have consented to the issuance of the revocation order. In the event of such consent, or if upon the record made at any such hearing, the Board shall find that any allegation specified in the notice of charges has been established, the Board may issue and serve upon the association an order prohibiting it from accepting any new or additional trust accounts and revoking authority to exercise any and all powers granted by this subsection, except that such order shall permit the association to continue to service all previously accepted trust accounts pending their expeditious divestiture or termination.

Effective date.

"(D) A revocation order shall become effective not earlier than the expiration of thirty days after service of such order upon the association so served (except in the case of a revocation order issued upon consent, which shall become effective at the time specified therein), and shall remain effective and enforceable, except to such extent as it is stayed, modified, terminated, or set aside by action of the Board or a reviewing court.".

CONVERSIONS

SEC. 404. The first sentence of section 5(i) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(i)) is amended by inserting ", and any State stock savings and loan type institution may (if such institution existed in stock form for at least the 4 years preceding the date of enactment of the Depository Institutions Deregulation and Monetary Control Act of 1980) convert its charter to a Federal stock charter under this Act," after "Federal savings and loan association under this Act".

Ante, p. 132.

LIQUIDITY REQUIREMENTS

SEC. 405. Section 5A(b) of the Federal Home Loan Bank Act (12 U.S.C. 1425a(b)) is amended to read as follows:

"(b)(1) Any institution which is a member or which is an insured institution as defined in section 401(a) of the National Housing Act shall maintain the aggregate amount of its assets of the following types at not less than such amount as, in the opinion of the Board, is appropriate:

12 USC 1724.

"(A) cash;

"(B) to such extent as the Board may approve for the purposes of this section, time and savings deposits in Federal Home Loan Banks and commercial banks;

"(C) to such extent as the Board may so approve, such obligations, including such special obligations, of the United States, a State, any territory or possession of the United States, or a

political subdivision, agency or instrumentality of any one or more of the foregoing, and bankers' acceptances, as the Board may approve; and

"(D) to such extent as the Board may so approve, shares or certificates of any open-end management investment company which is registered with the Securities and Exchange Commission under the Investment Company Act of 1940 and the portfolio of which is restricted by such investment company's investment policy, changeable only if authorized by shareholder vote, solely to any of the obligations or other investments enumerated in subparagraphs (A) through (C). 15 USC 80a-51.

"(2) The requirement prescribed by the Board pursuant to this subsection (hereinafter in this section referred to as the 'liquidity requirement') may not be less than 4 per centum or more than 10 per centum of the obligation of the institution on withdrawable accounts and borrowings payable on demand or with unexpired maturities of one year or less, or in the case of institutions which are insurance companies, such other base or bases as the Board may determine to be comparable. The Board shall prescribe rules and regulations to implement the provisions of this subsection.". Liquidity requirement. Rules and regulations.

STUDY OF MORTGAGE PORTFOLIOS

SEC. 406. (a)(1) The President shall convene an interagency task force consisting of the Secretary of the Treasury, the Secretary of Housing and Urban Development, the Federal Home Loan Bank Board, the Board of Governors of the Federal Reserve System, the Board of Directors of the Federal Deposit Insurance Corporation, the Comptroller of the Currency, and the National Credit Union Administration Board. The task force shall conduct a study and make recommendations regarding— Interagency task force. 12 USC 1425a note.

(A) the options available to provide balance to the asset-liability management problems inherent in the thrift portfolio structure;

(B) the options available to increase the ability of thrift institutions to pay market rates of interest in period of rapid inflation and high interest rates; and

(C) the options available through the Federal Home Loan Bank system and other Federal agencies to assist thrifts in times of economic difficulties.

(2) In carrying out such study, the task force shall solicit the views of, and invite participation by, consumer and public interest groups, business, labor, and State regulators of depository institutions.

(b) Not later than three months after the date of enactment of this Act, the task force shall transmit to the President and the Congress its findings and recommendations for such action as it deems appropriate. Report to President and Congress.

MUTUAL CAPITAL CERTIFICATES

SEC. 407. (a) Section 5(b) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(b)) is amended by adding at the end thereof the following:

"(5)(A) In accordance with rules and regulations issued by the Board, mutual capital certificates may be issued and sold directly to subscribers or through underwriters, and such certificates shall constitute part of the general reserve and net worth of the issuing association. The Board, in its rules and regulations relating to the issuance and sale of mutual capital certificates, shall provide that such certificates—

"(i) shall be subordinate to all savings accounts, savings certificates, and debt obligations;

"(ii) shall constitute a claim in liquidation on the general reserves, surplus, and undivided profits of the association remaining after the payment in full of all savings accounts, savings certificates, and debt obligations;

"(iii) shall be entitled to the payment of dividends; and

"(iv) may have a fixed or variable dividend rate.

"(B) The Board shall provide in its rules and regulations for charging losses to the mutual capital certificate, reserves, and other net worth accounts.".

Rules and regulations.

(b) Section 403(b) of the National Housing Act (12 U.S.C. 1726(b)), is amended by adding at the end thereof the following: "Mutual capital certificates, subordinate to the rights of holders of savings accounts, savings certificates, and the Corporation, shall be deemed to be reserves for the purposes of this subsection in accordance with rules and regulations prescribed by the Corporation. The Corporation shall provide in its rules and regulations for charging losses to the mutual capital certificate, reserves, and other net worth accounts. In the event an insured institution fails to maintain the reserves required by this title, no payment of dividends on such certificates shall be made except with the approval of the Corporation.".

MUTUAL SAVINGS BANKS

SEC. 408. (a) Section 5(a) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(a)) is amended—

(1) by inserting "(1)" after "(a)";

(2) in the fourth and fifth sentences by striking out "(1)" and "(2)" each place they appear therein and inserting in lieu thereof "(A)" and "(B)", respectively; and

(3) by adding at the end thereof the following new paragraph:

"(2) A Federal mutual savings bank may make commercial, corporate, and business loans except that—

"(A) not more than 5 per centum of the assets of such a bank may be so loaned; and

"(B) such loans may only be made within the State where the bank is located or within 75 miles of the bank's home office.".

(b) Section 5(a) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(a)) is amended by adding at the end thereof the following new paragraph:

"(3) In addition to the authority conferred by paragraph (1), Federal mutual savings bank may accept demand deposits in connection with a commercial, corporate, or business loan relationship.".

INSURANCE RESERVES

SEC. 409. The third sentence of section 403(b) of the National Housing Act (12 U.S.C. 1726(b)) is amended by striking out "5 per centum" and inserting in lieu thereof "an amount no greater than 6 per centum nor less than 3 per centum as determined by the Federal Home Loan Bank Board".

TITLE V—STATE USURY LAWS

PART A—MORTGAGE USURY LAWS

MORTGAGES

SEC. 501. (a)(1) The provisions of the constitution or the laws of any State expressly limiting the rate or amount of interest, discount points, finance charges, or other charges which may be charged, taken, received, or reserved shall not apply to any loan, mortgage, credit sale, or advance which is— 12 USC 1735f-7 note.

(A) secured by a first lien on residential real property, by a first lien on stock in a residential cooperative housing corporation where the loan, mortgage, or advance is used to finance the acquisition of such stock, or by a first lien on a residential manufactured home;

(B) made after March 31, 1980; and

(C) described in section 527(b) of the National Housing Act (12 U.S.C. 1735f-5(b)), except that for the purpose of this section—

(i) the limitation described in section 527(b)(1) of such Act that the property must be designed principally for the occupancy of from one to four families shall not apply;

(ii) the requirement contained in section 527(b)(1) of such Act that the loan be secured by residential real property shall not apply to a loan secured by stock in a residential cooperative housing corporation or to a loan or credit sale secured by a first lien on a residential manufactured home;

(iii) the term "federally related mortgage loan" in section 527(b) of such Act shall include a credit sale which is secured by a first lien on a residential manufactured home and which otherwise meets the definitional requirements of section 527(b) of such Act, as those requirements are modified by this section; "Federally related mortgage loan."

(iv) the term "residential loans" in section 527(b)(2)(D) of such Act shall also include loans or credit sales secured by a first lien on a residential manufactured home; "Residential loans."

(v) the requirement contained in section 527(b)(2)(D) of such Act that a creditor make or invest in loans aggregating more than $1,000,000 per year shall not apply to a creditor selling residential manufactured homes financed by loans or credit sales secured by first liens on residential manufactured homes if the creditor has an arrangement to sell such loans or credit sales in whole or in part, or if such loans or credit sales are sold in whole or in part to a lender, institution, or creditor described in section 527(b) of such Act or in this section or a creditor, as defined in section 103(f) of the Truth in Lending Act, as such section was in effect on the day preceding the date of enactment of this title, if such creditor makes or invests in residential real estate loans or loans or credit sales secured by first liens on residential manufactured homes aggregating more than $1,000,000 per year; and 15 USC 1602.

(vi) the term "lender" in section 527(b)(2)(A) of such Act shall also be deemed to include any lender approved by the Secretary of Housing and Urban Development for participation in any mortgage insurance program under the National Housing Act. "Lender."

"Depository institution."

(2)(A) The provisions of the constitution or law of any State expressly limiting the rate or amount of interest which may be charged, taken, received, or reserved shall not apply to any deposit or account held by, or other obligation of a depository institution. For purposes of this paragraph, the term "depository institution" means—

(i) any insured bank as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813);

(ii) any mutual savings bank as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813);

(iii) any savings bank as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813);

(iv) any insured credit union as defined in section 101 of the Federal Credit Union Act (12 U.S.C. 1752);

(v) any member as defined in section 2 of the Federal Home Loan Bank Act (12 U.S.C. 1422); and

(vi) any insured institution as defined in section 408 of the National Housing Act (12 U.S.C. 1730a).

Exemption.

12 USC 1813.

(B) This paragraph shall not apply to any such deposit, account, or obligation which is payable only at an office of an insured bank, as defined in section 3 of the Federal Deposit Insurance Act, located in the Commonwealth of Puerto Rico.

Effective date.

(b)(1) Except as provided in paragraphs (2) and (3), the provisions of subsection (a)(1) shall apply to any loan, mortgage, credit sale, or advance made in any State on or after April 1, 1980.

Exemption, State action.

(2) Except as provided in paragraph (3), the provisions of subsection (a)(1) shall not apply to any loan, mortgage, credit sale, or advance made in any State after the date (on or after April 1, 1980, and before April 1, 1983) on which such State adopts a law or certifies that the voters of such State have voted in favor of any provision, constitutional or otherwise, which states explicitly and by its terms that such State does not want the provisions of subsection (a)(1) to apply with respect to loans, mortgages, credit sales, and advances made in such State.

(3) In any case in which a State takes an action described in paragraph (2), the provisions of subsection (a)(1) shall continue to apply to—

(A) any loan, mortgage, credit sale, or advance which is made after the date such action was taken pursuant to a commitment therefor which was entered during the period beginning on April 1, 1980, and ending on the date on which such State takes such action; and

(B) any loan, mortgage, or advance which is a rollover of a loan, mortgage, or advance, as described in regulations of the Federal Home Loan Bank Board, which was made or committed to be made during the period beginning on April 1, 1980, and ending on the date on which such State takes any action described in paragraph (2).

Discount points, limitation.

(4) At any time after the date of enactment of this Act, any State may adopt a provision of law placing limitations on discount points or such other charges on any loan, mortgage, credit sale, or advance described in subsection (a)(1).

(c) The provisions of subsection (a)(1) shall not apply to a loan, mortgage, credit sale, or advance which is secured by a first lien on a residential manufactured home unless the terms and conditions relating to such loan, mortgage, credit sale, or advance comply with consumer protection provisions specified in regulations prescribed by the Federal Home Loan Bank Board. Such regulations shall—

(1) include consumer protection provisions with respect to balloon payments, prepayment penalties, late charges, and deferral fees;

(2) require a 30-day notice prior to instituting any action leading to repossession or foreclosure (except in the case of abandonment or other extreme circumstances);

(3) require that upon prepayment in full, the debtor shall be entitled to a refund of the unearned portion of the precomputed finance charge in an amount not less than the amount which would be calculated by the actuarial method, except that the debtor shall not be entitled to a refund which is less than $1; and

(4) include such other provisions as the Federal Home Loan Bank Board may prescribe after a finding that additional protections are required.

(d) The provisions of subsection (c) shall not apply to a loan, mortgage, credit sale, or advance secured by a first lien on a residential manufactured home until regulations required to be issued pursuant to paragraphs (1), (2), and (3) of subsection (c) take effect, except that the provisions of subsection (c) shall apply in the case of such a loan, mortgage, credit sale, or advance made prior to the date on which such regulations take effect if the loan, mortgage, credit sale, or advance includes a precomputed finance charge and does not provide that, upon prepayment in full, the refund of the unearned portion of the precomputed finance charge is in an amount not less the amount which would be calculated by the actuarial method, except that the debtor shall not be entitled to a refund which is less than $1. The Federal Home Loan Bank Board shall issue regulations pursuant to the provisions of paragraphs (1), (2), and (3) of subsection (c) that shall take effect prospectively not less than 30 days after publication in the Federal Register and not later than 120 days from the date of enactment of this Act. Regulations.

(e) For the purpose of this section— Definitions.

(1) a "prepayment" occurs upon—

(A) the refinancing or consolidation of the indebtedness;

(B) the actual prepayment of the indebtedness by the consumer whether voluntarily or following acceleration of the payment obligation by the creditor; or

(C) the entry of a judgment for the indebtedness in favor of the creditor;

(2) the term "actuarial method" means the method of allocating payments made on a debt between the outstanding balance of the obligation and the precomputed finance charge pursuant to which a payment is applied first to the accrued precomputed finance charge and any remainder is subtracted from, or any deficiency is added to, the outstanding balance of the obligation;

(3) the term "precomputed finance charge" means interest or a time price differential within the meaning of sections 106(a) (1) and (2) of the Truth in Lending Act (15 U.S.C. 1605(a) (1) and (2)) as computed by an add-on or discount method; and

(4) the term "residential manufactured home" means a mobile home as defined in section 603(6) of the National Mobile Home Construction and Safety Standards Act of 1974 which is used as a residence. 42 USC 5402.

(f) The Federal Home Loan Bank Board is authorized to issue rules and regulations and to publish interpretations governing the implementation of this section. Rules and regulations.

(g) This section takes effect on April 1, 1980. Effective date.

PART B—BUSINESS AND AGRICULTURAL LOANS

BUSINESS AND AGRICULTURAL LOANS

12 USC 86a.

SEC. 511. (a) If the applicable rate prescribed in this section exceeds the rate a person would be permitted to charge in the absence of this section, such person may in the case of a business or agricultural loan in the amount of $25,000 or more, notwithstanding any State constitution or statute which is hereby preempted for the purposes of this section, take, receive, reserve, and charge on any such loan, interest at a rate of not more than 5 per centum in excess of the discount rate, including any surcharge thereon, on ninety-day commercial paper in effect at the Federal Reserve bank in the Federal Reserve district where the person is located.

(b) If the rate prescribed in subsection (a) exceeds the rate such person would be permitted to charge in the absence of this section, and such State imposed rate is thereby preempted by the rate described in subsection (a), the taking, receiving, reserving, or charging a greater rate than is allowed by subsection (a), when knowingly done, shall be deemed a forfeiture of the entire interest which the loan carries with it, or which has been agreed to be paid thereon. If such greater rate of interest has been paid, the person who paid it may recover, in a civil action commenced in a court of appropriate jurisdiction not later than two years after the date of such payment, an amount equal to twice the amount of interest paid from the person taking, receiving, reserving, or charging such interest.

EFFECTIVE DATE OF PART B

12 USC 86a note.

SEC. 512. The provisions of this part shall apply only with respect to business or agricultural loans in amounts of $25,000 or more made in any State during the period beginning on April 1, 1980, and ending on the earlier of—

(1) April 1, 1983; or

(2) the date, on or after April 1, 1980, on which such State adopts a law or certifies that the voters of such State have voted in favor of any provision, constitutional or otherwise, which states explicitly and by its terms that such State does not want the provisions of this part to apply with respect to loans made in such State,

except that such provisions shall apply to any loan made on or after such earlier date pursuant to a commitment to make such loan which was entered into on or after April 1, 1980, and prior to such earlier date.

PART C—OTHER LOANS

INSURED BANKS

SEC. 521. The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by adding at the end thereof the following new section:

12 USC 1831d.

"SEC. 27. (a) In order to prevent discrimination against State-chartered insured banks, including insured savings banks and insured mutual savings banks, or insured branches of foreign banks with respect to interest rates, if the applicable rate prescribed in this subsection exceeds the rate such State bank or insured branch of a foreign bank would be permitted to charge in the absence of this subsection, such State bank or such insured branch of a foreign bank may, notwithstanding any State constitution or statute which is

hereby preempted for the purposes of this section, take, receive, reserve, and charge on any loan or discount made, or upon any note, bill of exchange, or other evidence of debt, interest at a rate of not more than 1 per centum in excess of the discount rate on ninety-day commercial paper in effect at the Federal Reserve bank in the Federal Reserve district where such State bank or such insured branch of a foreign bank is located or at the rate allowed by the laws of the State, territory, or district where the bank is located, whichever may be greater.

"(b) If the rate prescribed in subsection (a) exceeds the rate such State bank or such insured branch of a foreign bank would be permitted to charge in the absence of this section, and such State fixed rate is thereby preempted by the rate described in subsection (a), the taking, receiving, reserving, or charging a greater rate of interest than is allowed by subsection (a), when knowingly done, shall be deemed a forfeiture of the entire interest which the note, bill, or other evidence of debt carries with it, or which has been agreed to be paid thereon. If such greater rate of interest has been paid, the person who paid it may recover in a civil action commenced in a court of appropriate jurisdiction not later than two years after the date of such payment, an amount equal to twice the amount of the interest paid from such State bank or such insured branch of a foreign bank taking, receiving, reserving, or charging such interest.".

INSURED SAVINGS AND LOAN ASSOCIATIONS

SEC. 522. Title IV of the National Housing Act (12 U.S.C. 1724 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 414. (a) If the applicable rate prescribed in this section exceeds the rate an insured institution would be permitted to charge in the absence of this section, such institution may, notwithstanding any State constitution or statute which is hereby preempted for the purposes of this section, take, receive, reserve, and charge on any loan or discount made, or upon any note, bill of exchange, or other evidence of debt, interest at a rate of not more than 1 per centum in excess of the discount rate on ninety-day commercial paper in effect at the Federal Reserve bank in the Federal Reserve district where such institution is located or at the rate allowed by the laws of the State, territory, or district where such institution is located, whichever may be greater. 12 USC 1730g.

"(b) If the rate prescribed in subsection (a) exceeds the rate such institution would be permitted to charge in the absence of this section, and such State fixed rate is thereby preempted by the rate described in subsection (a), the taking, receiving, reserving, or charging a greater rate of interest than that prescribed by subsection (a), when knowingly done, shall be deemed a forfeiture of the entire interest which the note, bill, or other evidence of debt carries with it, or which has been agreed to be paid thereon. If such greater rate of interest has been paid, the person who paid it may recover, in a civil action commenced in a court of appropriate jurisdiction not later than two years after the date of such payment, an amount equal to twice the amount of the interest paid from the institution taking or receiving such interest.".

INSURED CREDIT UNIONS

Ante, p. 147.

SEC. 523. Section 205 of the Federal Credit Union Act (12 U.S.C. 1785) is amended by adding at the end thereof the following new subsection:

"(g)(1) If the applicable rate prescribed in this subsection exceeds the rate an insured credit union would be permitted to charge in the absence of this subsection, such credit union may, notwithstanding any State constitution or statute which is hereby preempted for the purposes of this subsection, take, receive, reserve, and charge on any loan, interest at a rate of not more than 1 per centum in excess of the discount rate on ninety-day commercial paper in effect at the Federal Reserve bank in the Federal Reserve district where such insured credit union is located or at the rate allowed by the laws of the State, territory, or district where such credit union is located, whichever may be greater.

"(2) If the rate prescribed in paragraph (1) exceeds the rate such credit union would be permitted to charge in the absence of this subsection, and such State fixed rate is thereby preempted by the rate described in paragraph (1), the taking, receiving, reserving, or charging a greater rate than is allowed by paragraph (1), when knowingly done, shall be deemed a forfeiture of the entire interest which the loan carries with it, or which has been agreed to be paid thereon. If such greater rate of interest has been paid, the person who paid it may recover, in a civil action commenced in a court of appropriate jurisdiction not later than two years after the date of such payment, an amount equal to twice the amount of interest paid from the credit union taking or receiving such interest.".

SMALL BUSINESS INVESTMENT COMPANIES

SEC. 524. Section 308 of the Small Business Investment Act of 1958 (15 U.S.C. 687) is amended by adding at the end thereof the following new subsection:

"(i)(1) The purpose of this subsection is to facilitate the orderly and necessary flow of long-term loans and equity funds from small business investment companies to small business concerns.

"(2) In the case of a business loan, the small business investment company making such loan may charge interest on such loan at a rate which does not exceed the lowest of the rates described in subparagraphs (A), (B), and (C).

"(A) The rate described in this subparagraph is the maximum rate prescribed by regulation by the Small Business Administration for loans made by any small business investment company (determined without regard to any State rate incorporated by such regulation).

"(B) The rate described in this subparagraph is the maximum rate authorized by an applicable State law or constitutional provision which is not preempted for purposes of this subsection.

"(C)(i) The rate described in this subparagraph is the higher of the Federal Reserve rate or the maximum rate authorized by applicable State law or constitutional provision (determined without regard to the preemption of such State law or constitutional provision).

"Federal Reserve rate."

"(ii) For purposes of clause (i), the term 'Federal Reserve rate' means the rate equal to the sum of 1 percentage point plus the discount rate on ninety-day commercial paper in effect at the Federal Reserve bank in the Federal Reserve district in which

the principal office of the small business investment company is located.

"(iii) The rate described in this subparagraph shall not apply to loans made in a State if there is no maximum rate authorized by applicable State law or constitutional provision for such loans or there is a maximum rate authorized by an applicable State law or constitutional provision which is not preempted for purposes of this subsection.

"(3) A State law or constitutional provision shall be preempted for purposes of paragraph (2)(B) with respect to any loan if such loan is made before the date, on or after April 1, 1980, on which such State adopts a law or certifies that the voters of such State have voted in favor of any provision, constitutional or otherwise, which states explicitly and by its terms that such State does not want the provisions of this subsection to apply with respect to loans made in such State, except that such State law or constitutional or other provision shall be preempted in the case of a loan made, on or after the date on which such law is adopted or such certification is made, pursuant to a commitment to make such loan which was entered into on or after April 1, 1980, and prior to the date on which such law is adopted or such certification is made.

"(4)(A) If the maximum rate of interest authorized under paragraph (2) on any loan made by a small business investment company exceeds the rate which would be authorized by applicable State law if such State law were not preempted for purposes of this subsection, the charging of interest at any rate in excess of the rate authorized by paragraph (2) shall be deemed a forfeiture of the greater of (i) all interest which the loan carries with it, or (ii) all interest which has been agreed to be paid thereon.

"(B) In the case of any loan with respect to which there is a forfeiture of interest under subparagraph (A), the person who paid the interest may recover from a small business investment company making such loan an amount equal to twice the amount of the interest paid on such loan. Such interest may be recovered in a civil action commenced in a court of appropriate jurisdiction not later than two years after the most recent payment of interest.".

EFFECTIVE DATE

SEC. 525. The amendments made by sections 521 through 523 of this title shall apply only with respect to loans made in any State during the period beginning on April 1, 1980, and ending on the date, on or after April 1, 1980, on which such State adopts a law or certifies that the voters of such State have voted in favor of any provision, constitutional or otherwise, which states explicitly and by its terms that such State does not want the amendments made by such sections to apply with respect to loans made in such State, except that such amendments shall apply to a loan made on or after the date such law is adopted or such certification is made if such loan is made pursuant to a commitment to make such loan which was entered into on or after April 1, 1980, and prior to the date on which such law is adopted or such certification is made. 12 USC 1730g note.

SEVERABILITY

SEC. 526. If any provision of this Act or the application of such provision to any person or circumstance shall be held invalid, the remainder of this Act and the application of such provision to any 12 USC 1730g note.

person or circumstance other than that as to which it is held invalid shall not be affected thereby.

DEFINITION

12 USC 1730g note.

SEC. 527. For purposes of this title, the term "State" includes the several States, the Commonwealth of Puerto Rico, the District of Columbia, Guam, the Trust Territories of the Pacific Islands, the Northern Mariana Islands, and the Virgin Islands, except as provided in section 501(a)(2)(B).

EFFECT ON OTHER LAW

12 USC 1735f-7 note.
93 Stat. 1114.

SEC. 528. In any case in which one or more provisions of, or amendments made by, this title, section 529 of the National Housing Act, or any other provision of law, including section 5197 of the Revised Statutes (12 U.S.C. 85), apply with respect to the same loan, mortgage, credit sale, or advance, such loan, mortgage, credit sale, or advance may be made at the highest applicable rate.

REPEAL OF EXISTING LAW

93 Stat. 789.
12 USC 85 note.
93 Stat. 1234.
12 USC 85 and note, 86a and note, 371b-1 and note, 1425b, 1730e, 1735f-7 note, 1828, 1831a and note; 15 USC 687.

SEC. 529. Effective at the close of March 31, 1980, Public Law 96-104, section 105(a)(2) of Public Law 96-161, and the amendments made by and the provisions of title II of Public Law 96-161 are hereby repealed, except that the provisions of such Public Law, the provisions of such section, the amendments made by such title, and the provisions of such title shall continue to apply to any loan made, any deposit made, or any obligation issued in any State during any period when those provisions or amendments were in effect in such State.

TITLE VI—TRUTH IN LENDING SIMPLIFICATION

Truth in Lending Simplification and Reform Act.

SHORT TITLE

15 USC 1601 note.

SEC. 601. This title may be cited as the "Truth in Lending Simplification and Reform Act".

DEFINITIONS

SEC. 602. (a) Section 103(f) of the Truth in Lending Act (15 U.S.C. 1602(f)) is amended—

"Creditor."

(1) by striking out the first sentence and inserting in lieu thereof the following: "The term 'creditor' refers only to a person who both (1) regularly extends, whether in connection with loans, sales of property or services, or otherwise, consumer credit which is payable by agreement in more than four installments or for which the payment of a finance charge is or may be required; and (2) is the person to whom the debt arising from the consumer credit transaction is initially payable on the face of the evidence of indebtedness or, if there is no such evidence of indebtedness, by agreement. Notwithstanding the previous sentence, a person who regularly arranges for the extension of consumer credit, which is payable in more than four installments or for which the payment of a finance charge is or may be required, from persons who are not creditors is a creditor, and in the case of an open end credit plan involving a credit card, the card issuer and any person who honors the credit card and offers a discount which is a finance charge are creditors."; and

(2) by redesignating the references to sections 127(a)(6), 127(a)(7), 127(a)(8), 127(b)(9), and 127(b)(11) in the next succeeding sentence as references to sections 127(a)(5), 127(a)(6), 127(a)(7), 127(b)(8), and 127(b)(10), respectively.

(b) The first sentence of section 103(g) of the Truth in Lending Act (15 U.S.C. 1602(g)) is amended to read as follows: "The term 'credit sale' refers to any sale in which the seller is a creditor.".

EXEMPTED TRANSACTIONS

SEC. 603. (a) Section 103(h) of the Truth in Lending Act (15 U.S.C. 1602(h)) is amended by striking out "household, or agricultural" and inserting in lieu thereof "or household".

(b) Section 103 of the Truth in Lending Act (15 U.S.C. 1602) is amended by redesignating subsections (s) and (t) as subsections (x) and (y), respectively, and by inserting after subsection (r) the following new subsections:

"(s) The term 'agricultural purposes' includes the production, harvest, exhibition, marketing, transportation, processing, or manufacture of agricultural products by a natural person who cultivates, plants, propagates, or nurtures those agricultural products, including but not limited to the acquisition of farmland, real property with a farm residence, and personal property and services used primarily in farming. "Agricultural purposes."

"(t) The term 'agricultural products' includes agricultural, horticultural, viticultural, and dairy products, livestock, wildlife, poultry, bees, forest products, fish and shellfish, and any products thereof, including processed and manufactured products, and any and all products raised or produced on farms and any processed or manufactured products thereof.". "Agricultural products."

(c) Section 104 of the Truth in Lending Act (15 U.S.C. 1603) is amended—

(1) by amending paragraph (1) to read as follows:

"(1) Credit transactions involving extensions of credit primarily for business, commercial, or agricultural purposes, or to government or governmental agencies or instrumentalities, or to organizations.";

(2) by amending paragraph (3) to read as follows:

"(3) Credit transactions, other than those in which a security interest is or will be acquired in real property, or in personal property used or expected to be used as the principal dwelling of the consumer, in which the total amount financed exceeds $25,000."; and

(3) by striking out paragraph (5).

OPEN END CREDIT PLAN

SEC. 604. Section 103(i) of the Truth in Lending Act (15 U.S.C. 1602(i)) is amended to read as follows:

"(i) The term 'open end credit plan' means a plan under which the creditor reasonably contemplates repeated transactions, which prescribes the terms of such transactions, and which provides for a finance charge which may be computed from time to time on the outstanding unpaid balance. A credit plan which is an open end credit plan within the meaning of the preceding sentence is an open end credit plan even if credit information is verified from time to time.".

MODEL FORMS

15 USC 1604.

SEC. 605. Section 105 of the Truth in Lending Act (15 U.S.C. 1605) is amended by inserting "(a)" before "The", and by adding at the end thereof the following:

Publication.

"(b) The Board shall publish model disclosure forms and clauses for common transactions to facilitate compliance with the disclosure requirements of this title and to aid the borrower or lessee in understanding the transaction by utilizing readily understandable language to simplify the technical nature of the disclosures. In devising such forms, the Board shall consider the use by creditors or lessors of data processing or similar automated equipment. Nothing in this title may be construed to require a creditor or lessor to use any such model form or clause prescribed by the Board under this section. A creditor or lessor shall be deemed to be in compliance with the disclosure provisions of this title with respect to other than numerical disclosures if the creditor or lessor (1) uses any appropriate model form or clause as published by the Board, or (2) uses any such model form or clause and changes it by (A) deleting any information which is not required by this title, or (B) rearranging the format, if in making such deletion or rearranging the format, the creditor or lessor does not affect the substance, clarity, or meaningful sequence of the disclosure.

Notice in Federal Register.

"(c) Model disclosure forms and clauses shall be adopted by the Board after notice duly given in the Federal Register and an opportunity for public comment in accordance with section 553 of title 5, United States Code.

Effective date.

"(d) Any regulation of the Board, or any amendment or interpretation thereof, requiring any disclosure which differs from the disclosures previously required by this chapter, chapter 4, or chapter 5, or by any regulation of the Board promulgated thereunder shall have an effective date of that October 1 which follows by at least six months the date of promulgation, except that the Board may at its discretion take interim action by regulation, amendment, or interpretation to lengthen the period of time permitted for creditors or lessors to adjust their forms to accommodate new requirements or shorten the length of time for creditors or lessors to make such adjustments when it makes a specific finding that such action is necessary to comply with the findings of a court or to prevent unfair or deceptive disclosure practices. Notwithstanding the previous sentence, any creditor or lessor may comply with any such newly promulgated disclosure requirements prior to the effective date of the requirements.".

15 USC 1666 *et seq.*, 1667 *et seq.*

COMPONENTS OF FINANCE CHARGE

SEC. 606. (a) Section 106(a) of the Truth in Lending Act (15 U.S.C. 1605(a)) is amended by striking out ", including any of the following types of charges which are applicable" and inserting in lieu thereof the following: ". The finance charge does not include charges of a type payable in a comparable cash transaction. Examples of charges which are included in the finance charge include any of the following types of charges which are applicable".

(b) Section 106(d) of the Truth in Lending Act (15 U.S.C. 1605(d)) is amended by striking out paragraphs (3) and (4).

ACCURACY OF ANNUAL PERCENTAGE RATE

SEC. 607. (a) Section 107(c) of the Truth in Lending Act (15 U.S.C. 1606(c)) is amended to read as follows:

"(c) The disclosure of an annual percentage rate is accurate for the purpose of this title if the rate disclosed is within a tolerance not greater than one-eighth of 1 per centum more or less than the actual rate or rounded to the nearest one-fourth of 1 per centum. The Board may allow a greater tolerance to simplify compliance where irregular payments are involved.".

(b) Section 107(e) of the Truth in Lending Act (15 U.S.C. 1606(e)) is amended by striking out "(c) or".

(c) Section 107(f) of the Truth in Lending Act (15 U.S.C. 1606(f)) is hereby repealed. Repeal.

RESTITUTION

SEC. 608. (a) Section 108 of the Truth in Lending Act (15 U.S.C. 1607) is amended by adding at the end thereof the following:

"(e)(1) In carrying out its enforcement activities under this section, each agency referred to in subsection (a) or (c), in cases where an annual percentage rate or finance charge was inaccurately disclosed, shall notify the creditor of such disclosure error and is authorized in accordance with the provisions of this subsection to require the creditor to make an adjustment to the account of the person to whom credit was extended, to assure that such person will not be required to pay a finance charge in excess of the finance charge actually disclosed or the dollar equivalent of the annual percentage rate actually disclosed, whichever is lower. For the purposes of this subsection, except where such disclosure error resulted from a willful violation which was intended to mislead the person to whom credit was extended, in determining whether a disclosure error has occurred and in calculating any adjustment, (A) each agency shall apply (i) with respect to the annual percentage rate, a tolerance of one-quarter of 1 percent more or less than the actual rate, determined without regard to section 107(c) of this title, except in the case of an irregular mortgage lending transaction, and (ii) with respect to the finance charge, a corresponding numerical tolerance as generated by the tolerance provided under this subsection for the annual percentage rate; except that (B) with respect to transactions consummated after two years following the effective date of section 608 of the Truth in Lending Simplification and Reform Act, each agency shall apply (i) for transactions that have a scheduled amortization of ten years or less, with respect to the annual percentage rate, a tolerance not to exceed one-quarter of 1 percent more or less than the actual rate, determined without regard to section 107(c) of this title, but in no event a tolerance of less than the tolerances allowed under section 107(c), (ii) for transactions that have a scheduled amortization of more than ten years, with respect to the annual percentage rate, only such tolerances as are allowed under section 107(c) of this title, and (iii) for all transactions, with respect to the finance charge, a corresponding numerical tolerance as generated by the tolerances provided under this subsection for the annual percentage rate.

Ante, p. 170.

Supra.

"(2) Each agency shall require such an adjustment when it determines that such disclosure error resulted from (A) a clear and consistent pattern or practice of violations, (B) gross negligence, or (C) a willful violation which was intended to mislead the person to whom the credit was extended. Notwithstanding the preceding sentence, except where such disclosure error resulted from a willful violation which was intended to mislead the person to whom credit was extended, an agency need not require such an adjustment if it determines that such disclosure error—

"(A) resulted from an error involving the disclosure of a fee or charge that would otherwise be excludable in computing the finance charge, including but not limited to violations involving the disclosures described in sections 106(b), (c) and (d) of this title, in which event the agency may require such remedial action as it determines to be equitable, except that for transactions consummated after two years after the effective date of section 608 of the Truth in Lending Simplification and Reform Act, such an adjustment shall be ordered for violations of section 106(b);

Ante, p. 171.
15 USC 1605.

"(B) involved a disclosed amount which was 10 per centum or less of the amount that should have been disclosed and (i) in cases where the error involved a disclosed finance charge, the annual percentage rate was disclosed correctly, and (ii) in cases where the error involved a disclosed annual percentage rate, the finance charge was disclosed correctly; in which event the agency may require such adjustment as it determines to be equitable;

"(C) involved a total failure to disclose either the annual percentage rate or the finance charge, in which event the agency may require such adjustment as it determines to be equitable; or

"(D) resulted from any other unique circumstance involving clearly technical and nonsubstantive disclosure violations that do not adversely affect information provided to the consumer and that have not misled or otherwise deceived the consumer.

In the case of other such disclosure errors, each agency may require such an adjustment.

"(3) Notwithstanding paragraph (2), no adjustment shall be ordered (A) if it would have a significantly adverse impact upon the safety or soundness of the creditor, but in any such case, the agency may require a partial adjustment in an amount which does not have such an impact, except that with respect to any transaction consummated after the effective date of section 608 of the Truth in Lending Simplification and Reform Act, the agency shall require the full adjustment, but permit the creditor to make the required adjustment in partial payments over an extended period of time which the agency considers to be reasonable, (B) if the amount of the adjustment would be less than $1, except that if more than one year has elapsed since the date of the violation, the agency may require that such amount be paid into the Treasury of the United States, or (C) except where such disclosure error resulted from a willful violation which was intended to mislead the person to whom credit was extended, in the case of an open-end credit plan, more than two years after the violation, or in the case of any other extension of credit, as follows:

Ante, p. 171.

"(i) with respect to creditors that are subject to examination by the agencies referred to in paragraphs (1) through (3) of section 108(a) of this title, except in connection with violations arising from practices identified in the current examination and only in connection with transactions that are consummated after the date of the immediately preceding examination, except that where practices giving rise to violations identified in earlier examinations have not been corrected, adjustments for those violations shall be required in connection with transactions consummated after the date of the examination in which such practices were first identified;

"(ii) with respect to creditors that are not subject to examination by such agencies, except in connection with transactions that are consummated after May 10, 1978; and

"(iii) in no event after the later of (I) the expiration of the life of the credit extension, or (II) two years after the agreement to extend credit was consummated.

"(4)(A) Notwithstanding any other provision of this section, an adjustment under this subsection may be required by an agency referred to in subsection (a) or (c) only by an order issued in accordance with cease and desist procedures provided by the provision of law referred to in such subsections.

"(B) In the case of an agency which is not authorized to conduct cease and desist proceedings, such an order may be issued after an agency hearing on the record conducted at least thirty but not more than sixty days after notice of the alleged violation is served on the creditor. Such a hearing shall be deemed to be a hearing which is subject to the provisions of section 8(h) of the Federal Deposit Insurance Act and shall be subject to judicial review as provided therein. 12 USC 1818.

"(5) Except as otherwise specifically provided in this subsection and notwithstanding any provision of law referred to in subsection (a) or (c), no agency referred to in subsection (a) or (c) may require a creditor to make dollar adjustments for errors in any requirements under this title, except with regard to the requirements of section 165.

"(6) A creditor shall not be subject to an order to make an adjustment, if within sixty days after discovering a disclosure error, whether pursuant to a final written examination report or through the creditor's own procedures, the creditor notifies the person concerned of the error and adjusts the account so as to assure that such person will not be required to pay a finance charge in excess of the finance charge actually disclosed or the dollar equivalent of the annual percentage rate actually disclosed, whichever is lower. *Post*, p. 184.

"(7) Notwithstanding the second sentence of subsection (e)(1), subsection (e)(3)(C)(i), and subsection (e)(3)(C)(ii), each agency referred to in subsection (a) or (c) shall require an adjustment for an annual percentage rate disclosure error that exceeds a tolerance of one quarter of one percent less than the actual rate, determined without regard to section 107(c) of this title, except in the case of an irregular mortgage lending transaction, with respect to any transaction consummated between January 1, 1977, and the effective date of section 608 of the Truth in Lending Simplification and Reform Act.". *Ante*, p. 170.

(b) This section shall take effect on the date of enactment of the Truth in Lending Simplification and Reform Act. *Ante*, p. 171. Effective date. 15 USC 1607 note.

(c) Effective one year after the date of enactment of the Truth in Lending Simplification and Reform Act, section 108(e)(1)(A)(i) and section 108(e)(7) of the Truth in Lending Act are amended by striking out ", except in the case of an irregular mortgage lending transaction". *Ante*, p. 168. 15 USC 1607. *Ante*, p. 171.

EFFECT ON OTHER LAWS

SEC. 609. Section 111(a) of the Truth in Lending Act (15 U.S.C. 1610(a)) is amended to read as follows:

"(a)(1) Chapters 1, 2, and 3 do not annul, alter, or affect the laws of any State relating to the disclosure of information in connection with credit transactions, except to the extent that those laws are inconsistent with the provisions of this title, and then only to the extent of the inconsistency. Upon its own motion or upon the request of any creditor, State, or other interested party which is submitted in accordance with procedures prescribed in regulations of the Board, the Board shall determine whether any such inconsistency exists. If the Board determines that a State-required disclosure is incon- 15 USC 1601 *et seq.*, 1631 *et seq.*, 1661 *et seq.*

sistent, creditors located in that State may not make disclosures using the inconsistent term or form, and shall incur no liability under the law of that State for failure to use such term or form, notwithstanding that such determination is subsequently amended, rescinded, or determined by judicial or other authority to be invalid for any reason.

"(2) Upon its own motion or upon the request of any creditor, State, or other interested party which is submitted in accordance with procedures prescribed in regulations of the Board, the Board shall determine whether any disclosure required under the law of any State is substantially the same in meaning as a disclosure required under this title. If the Board determines that a State-required disclosure is substantially the same in meaning as a disclosure required by this title, then creditors located in that State may make such disclosure in compliance with such State law in lieu of the disclosure required by this title, except that the annual percentage rate and finance charge shall be disclosed as required by section 122.".

State-required disclosure.

Post, p. 175.

ANNUAL REPORTS

SEC. 610. (a) Section 114 of the Truth in Lending Act (15 U.S.C. 1613) is amended by striking out "Not later than January 3 of each year after 1969," and inserting in lieu thereof "Each year".

(b) Section 18(f)(6) of the Federal Trade Commission Act (15 U.S.C. 57a(f)(6)) is amended by striking out "not later than March 15 of".

(c) Section 707 of the Equal Credit Opportunity Act (15 U.S.C. 1691f) is amended by striking out "Not later than February 1 of each year after 1976" and inserting in lieu thereof "Each year".

GENERAL DISCLOSURE REQUIREMENTS

SEC. 611. Sections 121 and 122 of the Truth in Lending Act (15 U.S.C. 1631 and 1632) are amended to read as follows:

"§ 121. General requirement of disclosure

"(a) Subject to subsection (b), a creditor or lessor shall disclose to the person who is obligated on a consumer lease or a consumer credit transaction the information required under this title. In a transaction involving more than one obligor, a creditor or lessor, except in a transaction under section 125, need not disclose to more than one of such obligors if the obligor given disclosure is a primary obligor.

15 USC 1635.

"(b) If a transaction involves one creditor as defined in section 103(f), or one lessor as defined in section 181(3), such creditor or lessor shall make the disclosures. If a transaction involves more than one creditor or lessor, only one creditor or lessor shall be required to make the disclosures. The Board shall by regulation specify which creditor or lessor shall make the disclosures.

Ante, p. 168.
15 USC 1667.

"(c) The Board may provide by regulation that any portion of the information required to be disclosed by this title may be given in the form of estimates where the provider of such information is not in a position to know exact information.

"(d) The Board shall determine whether tolerances for numerical disclosures other than the annual percentage rate are necessary to facilitate compliance with this title, and if it determines that such tolerances are necessary to facilitate compliance, it shall by regulation permit disclosures within such tolerances. The Board shall exercise its authority to permit tolerances for numerical disclosures other than the annual percentage rate so that such tolerances are

narrow enough to prevent such tolerances from resulting in misleading disclosures or disclosures that circumvent the purposes of this title.

"§ 122. Form of disclosure; additional information

"(a) Information required by this title shall be disclosed clearly and conspicuously, in accordance with regulations of the Board. The terms 'annual percentage rate' and 'finance charge' shall be disclosed more conspicuously than other terms, data, or information provided in connection with a transaction, except information relating to the identity of the creditor. Regulations of the Board need not require that disclosures pursuant to this title be made in the order set forth in this title and, except as otherwise provided, may permit the use of terminology different from that employed in this title if it conveys substantially the same meaning.

"Annual percentage rate" and "finance charge."

"(b) Any creditor or lessor may supply additional information or explanation with any disclosures required under chapters 4 and 5 and, except as provided in section 128(b)(1), under this chapter.".

15 USC 1666 *et seq.*, 1667 *et seq.* *Post*, p. 179.

RESCISSION

SEC. 612. (a)(1) Section 125(a) of the Truth in Lending Act (15 U.S.C. 1635(a)) is amended to read as follows:

"(a) Except as otherwise provided in this section, in the case of any consumer credit transaction (including opening or increasing the credit limit for an open end credit plan) in which a security interest, including any such interest arising by operation of law, is or will be retained or acquired in any property which is used as the principal dwelling of the person to whom credit is extended, the obligor shall have the right to rescind the transaction until midnight of the third business day following the consummation of the transaction or the delivery of the information and rescission forms required under this section together with a statement containing the material disclosures required under this title, whichever is later, by notifying the creditor, in accordance with regulations of the Board, of his intention to do so. The creditor shall clearly and conspicuously disclose, in accordance with regulations of the Board, to any obligor in a transaction subject to this section the rights of the obligor under this section. The creditor shall also provide, in accordance with regulations of the Board, appropriate forms for the obligor to exercise his right to rescind any transaction subject to this section.".

(2) Section 103 of the Truth in Lending Act (15 U.S.C. 1602), as amended by section 603(b), is amended by adding at the end thereof the following:

Ante, p. 169.

"(u) The term 'material disclosures' means the disclosure, as required by this title, of the annual percentage rate, the method of determining the finance charge and the balance upon which a finance charge will be imposed, the amount of the finance charge, the amount to be financed, the total of payments, the number and amount of payments, and the due dates or periods of payments scheduled to repay the indebtedness.".

"Material disclosures."

(3) Section 125(b) of the Truth in Lending Act (15 U.S.C. 1635(b)) is amended by striking out "ten days" each place it appears therein and inserting in lieu thereof "20 days".

(4) Section 125(b) of the Truth in Lending Act (15 U.S.C. 1635(b)) is amended by adding at the end thereof the following new sentence: "The procedures prescribed by this subsection shall apply except when otherwise ordered by a court.".

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(5) Section 125(c) of the Truth in Lending Act (15 U.S.C. 1635(c)) is amended by inserting "information, forms, and" after "whom".

(6) Section 125 of the Truth in Lending Act (15 U.S.C. 1635) is amended by striking out subsections (e) and (f) and inserting in lieu thereof the following:

"(e)(1) This section does not apply to—

Infra.

"(A) a residential mortgage transaction as defined in section 103(w);

"(B) a transaction which constitutes a refinancing or consolidation (with no new advances) of the principal balance then due and any accrued and unpaid finance charges of an existing extension of credit by the same creditor secured by an interest in the same property;

"(C) a transaction in which an agency of a State is the creditor; or

"(D) advances under a preexisting open end credit plan if a security interest has already been retained or acquired and such advances are in accordance with a previously established credit limit for such plan.

"(2) The provisions of paragraph (1)(D) shall cease to be effective 3 years after the effective date of the Truth in Lending Simplification and Reform Act.

Ante, p. 168.

"(f) An obligor's right of rescission shall expire three years after the date of consummation of the transaction or upon the sale of the property, whichever occurs first, notwithstanding the fact that the information and forms required under this section or any other disclosures required under this chapter have not been delivered to the obligor, except that if (1) any agency empowered to enforce the provisions of this title institutes a proceeding to enforce the provisions of this section within three years after the date of consummation of the transaction, (2) such agency finds a violation of section 125, and (3) the obligor's right to rescind is based in whole or in part on any matter involved in such proceeding, then the obligor's right of rescission shall expire three years after the date of consummation of the transaction or upon the earlier sale of the property, or upon the expiration of one year following the conclusion of the proceeding, or any judicial review or period for judicial review thereof, whichever is later.

15 USC 1635.

"(g) In any action in which it is determined that a creditor has violated this section, in addition to rescission the court may award relief under section 130 for violations of this title not relating to the right to rescind.".

15 USC 1640.

(b) Section 103 of the Truth in Lending Act (15 U.S.C. 1602) is amended by inserting after subsection (u) the following:

"Dwelling."

"(v) The term 'dwelling' means a residential structure or mobile home which contains one to four family housing units, or individual units of condominiums or cooperatives.

"Residential mortgage transaction."

"(w) The term 'residential mortgage transaction' means a transaction in which a mortgage, deed of trust, purchase money security interest arising under an installment sales contract, or equivalent consensual security interest is created or retained against the consumer's dwelling to finance the acquisition or initial construction of such dwelling.".

OPEN END DISCLOSURES

SEC. 613. (a) Section 127(a) of the Truth in Lending Act (15 U.S.C. 1637(a)) is amended—

(1) by adding at the end of paragraph (1) the following new sentence: "If no such time period is provided, the creditor shall disclose such fact.";

(2) by striking out paragraph (5) and redesignating paragraphs (6), (7), and (8) as paragraphs (5), (6), and (7), respectively; and

(3) by amending paragraphs (5) and (6), as redesignated by paragraph (2), to read as follows:

"(5) Identification of other charges which may be imposed as part of the plan, and their method of computation, in accordance with regulations of the Board.

"(6) In cases where the credit is or will be secured, a statement that a security interest has been or will be taken in (A) the property purchased as part of the credit transaction, or (B) property not purchased as part of the credit transaction identified by item or type.".

(b) Section 127(b)(2) of the Truth in Lending Act (15 U.S.C. 1637(b)(2)) is amended to read as follows:

"(2) The amount and date of each extension of credit during the period, and a brief identification, on or accompanying the statement of each extension of credit in a form prescribed by the Board sufficient to enable the obligor either to identify the transaction or to relate it to copies of sales vouchers or similar instruments previously furnished, except that a creditor's failure to disclose such information in accordance with this paragraph shall not be deemed a failure to comply with this chapter or this title if (A) the creditor maintains procedures reasonably adapted to procure and provide such information, and (B) the creditor responds to and treats any inquiry for clarification or documentation as a billing error and an erroneously billed amount under section 161. In lieu of complying with the requirements of the previous sentence, in the case of any transaction in which the creditor and seller are the same person, as defined by the Board, and such person's open end credit plan has fewer than 15,000 accounts, the creditor may elect to provide only the amount and date of each extension of credit during the period and the seller's name and location where the transaction took place if (A) a brief identification of the transaction has been previously furnished, and (B) the creditor responds to and treats any inquiry for clarification or documentation as a billing error and an erroneously billed amount under section 161.". 15 USC 1666.

15 USC 1666.

(c) Section 127(b) of the Truth in Lending Act (15 U.S.C. 1637) is amended by striking out paragraph (7) and by redesignating paragraphs (8), (9), (10), and (11) as paragraphs (7), (8), (9), and (10), respectively.

(d) Section 127(a)(7) of the Truth in Lending Act (15 U.S.C. 1637(a)), as redesignated by subsection (a)(2), is amended by striking out "each of two billing cycles per year, at semiannual intervals" and inserting in lieu thereof "one billing cycle per calendar year, at intervals of not less than six months or more than eighteen months".

(e) Section 127(c) of the Truth in Lending Act (15 U.S.C. 1637(c)) is hereby repealed. Repeal.

(f) Section 143 of the Truth in Lending Act (15 U.S.C. 1663) is amended by striking out "or the appropriate rate determined under section 127(a)(5)". *Post*, p. 183. *Ante*, p. 176.

(g) Section 161(a) of the Truth in Lending Act (15 U.S.C. 1666(a)) is amended by redesignating the references to sections 127(b)(11) and 127(a)(8) as references to sections 127(b)(10) and 127(a)(7), respectively.

OTHER THAN OPEN END DISCLOSURES

SEC. 614. (a) Section 128(a) of the Truth in Lending Act (15 U.S.C. 1638(a)) is amended to read as follows:

"(a) For each consumer credit transaction other than under an open end credit plan, the creditor shall disclose each of the following items, to the extent applicable:

"(1) The identity of the creditor required to make disclosure.

"Amount financed." Computation method.

"(2)(A) The 'amount financed', using that term, which shall be the amount of credit of which the consumer has actual use. This amount shall be computed as follows, but the computations need not be disclosed and shall not be disclosed with the disclosures conspicuously segregated in accordance with subsection (b)(1):

"(i) take the principal amount of the loan or the cash price less downpayment and trade-in;

"(ii) add any charges which are not part of the finance charge or of the principal amount of the loan and which are financed by the consumer, including the cost of any items excluded from the finance charge pursuant to section 106; and

15 USC 1605.

"(iii) subtract any charges which are part of the finance charge but which will be paid by the consumer before or at the time of the consummation of the transaction, or have been withheld from the proceeds of the credit.

"(B) In conjunction with the disclosure of the amount financed, a creditor shall provide a statement of the consumer's right to obtain, upon a written request, a written itemization of the amount financed. The statement shall include spaces for a 'yes' and 'no' indication to be initialed by the consumer to indicate whether the consumer wants a written itemization of the amount financed. Upon receiving an affirmative indication, the creditor shall provide, at the time other disclosures are required to be furnished, a written itemization of the amount financed.

"Itemization of the amount financed."

For the purposes of this subparagraph, 'itemization of the amount financed' means a disclosure of the following items, to the extent applicable:

"(i) the amount that is or will be paid directly to the consumer;

"(ii) the amount that is or will be credited to the consumer's account to discharge obligations owed to the creditor;

"(iii) each amount that is or will be paid to third persons by the creditor on the consumer's behalf, together with an identification of or reference to the third person; and

"(iv) the total amount of any charges described in the preceding subparagraph (A)(iii).

"(3) The 'finance charge', not itemized, using that term.

"(4) The finance charge expressed as an 'annual percentage rate', using that term. This shall not be required if the amount financed does not exceed $75 and the finance charge does not exceed $5, or if the amount financed exceeds $75 and the finance charge does not exceed $7.50.

"(5) The sum of the amount financed and the finance charge, which shall be termed the 'total of payments'.

"(6) The number, amount, and due dates or period of payments scheduled to repay the total of payments.

Ante, p. 174.

"(7) In a sale of property or services in which the seller is the creditor required to disclose pursuant to section 121(b), the 'total sale price', using that term, which shall be the total of the cash

price of the property or services, additional charges, and the finance charge.

"(8) Descriptive explanations of the terms 'amount financed', 'finance charge', 'annual percentage rate', 'total of payments', and 'total sale price' as specified by the Board. The descriptive explanation of 'total sale price' shall include reference to the amount of the downpayment.

"(9) Where the credit is secured, a statement that a security interest has been taken in (A) the property which is purchased as part of the credit transaction, or (B) property not purchased as part of the credit transaction identified by item or type. Secured credit statement.

"(10) Any dollar charge or percentage amount which may be imposed by a creditor solely on account of a late payment, other than a deferral or extension charge.

"(11) A statement indicating whether or not the consumer is entitled to a rebate of any finance charge upon refinancing or prepayment in full pursuant to acceleration or otherwise, if the obligation involves a precomputed finance charge. A statement indicating whether or not a penalty will be imposed in those same circumstances if the obligation involves a finance charge computed from time to time by application of a rate to the unpaid principal balance.

"(12) A statement that the consumer should refer to the appropriate contract document for any information such document provides about nonpayment, default, the right to accelerate the maturity of the debt, and prepayment rebates and penalties.

"(13) In any residential mortgage transaction, a statement indicating whether a subsequent purchaser or assignee of the consumer may assume the debt obligation on its original terms and conditions.".

(b) Section 128(b) of the Truth in Lending Act (15 U.S.C. 1638(b)) is amended to read as follows:

"(b)(1) Except as otherwise provided in this chapter, the disclosures required under subsection (a) shall be made before the credit is extended. Except for the disclosures required by subsection (a)(1) of this section, all disclosures required under subsection (a) and any disclosure provided for in subsection (b), (c), or (d) of section 106 shall be conspicuously segregated from all other terms, data, or information provided in connection with a transaction, including any computations or itemization. 15 USC 1605.

"(2) In the case of a residential mortgage transaction, as defined in section 103(w), which is also subject to the Real Estate Settlement Procedures Act, good faith estimates of the disclosures required under subsection (a) shall be made in accordance with regulations of the Board under section 121(c) before the credit is extended, or shall be delivered or placed in the mail not later than three business days after the creditor receives the consumer's written application, whichever is earlier. If the disclosure statement furnished within three days of the written application contains an annual percentage rate which is subsequently rendered inaccurate within the meaning of section 107(c), the creditor shall furnish another statement at the time of settlement or consummation.". *Ante*, p. 176. 12 USC 2601 note. *Ante*, p. 174. *Ante*, p. 170.

(c) Section 128(c) of the Truth in Lending Act (15 U.S.C. 1638(c)) is amended—

(1) by inserting "(1)" after "(c)";

(2) by striking out "deferred payment price" and inserting in lieu thereof "total sale price"; and

(3) by adding at the end thereof the following new paragraph:

"(2) If a creditor receives a request for a loan by mail or telephone without personal solicitation and the terms of financing, including the annual percentage rate for representative amounts of credit, are set forth in the creditor's printed material distributed to the public, or in the contract of loan or other printed material delivered to the obligor, then the disclosures required under subsection (a) may be made at any time not later than the date the first payment is due.".

Repeal.

(d)(1) Section 129 of the Truth in Lending Act (15 U.S.C. 1639) is hereby repealed.

(2) The table of sections at the beginning of chapter 2 of the Truth in Lending Act is amended by striking out the item relating to section 129 and inserting in lieu thereof the following:

"129. [Repealed].".

Repeal.

(e)(1) Section 126 of the Truth in Lending Act (15 U.S.C. 1636) is hereby repealed.

(2) The table of sections at the beginning of chapter 2 of the Truth in Lending Act is amended by striking out the item relating to section 126 and inserting in lieu thereof the following:

"126. [Repealed].".

(f)(1) The table of sections at the beginning of chapter 2 of the Truth in Lending Act is amended by striking out the item relating to section 128 and inserting in lieu thereof the following:

"128. Consumer credit not under open end credit plans.".

(2) The section heading for section 128 of the Truth in Lending Act (15 U.S.C. 1638) is amended by striking out "SALES" and inserting in lieu thereof "CONSUMER CREDIT".

CIVIL LIABILITY

SEC. 615. (a) Section 130 of the Truth in Lending Act (15 U.S.C. 1640) is amended—

(1) in subsection (a)(2)(B), by striking out "in such action" and inserting in lieu thereof "under this subparagraph in any class action or series of class actions arising out of the same failure to comply by the same creditor";

(2) in subsection (a)(3), by inserting "or in any action in which a person is determined to have a right of rescission under section 125" after "liability";

15 USC 1635.

(3) by amending subsections (b), (c), and (d) to read as follows:

"(b) A creditor or assignee has no liability under this section or section 108 or section 112 for any failure to comply with any requirement imposed under this chapter or chapter 5, if within sixty days after discovering an error, whether pursuant to a final written examination report or notice issued under section 108(e)(1) or through the creditor's or assignee's own procedures, and prior to the institution of an action under this section or the receipt of written notice of the error from the obligor, the creditor or assignee notifies the person concerned of the error and makes whatever adjustments in the appropriate account are necessary to assure that the person will not be required to pay an amount in excess of the charge actually disclosed, or the dollar equivalent of the annual percentage rate actually disclosed, whichever is lower.

15 USC 1607, 1611.
15 USC 1631 *et seq.*, 1667 *et seq.*
Ante, p. 171.

"(c) A creditor or assignee may not be held liable in any action brought under this section or section 125 for a violation of this title if the creditor or assignee shows by a preponderance of evidence that the violation was not intentional and resulted from a bona fide error notwithstanding the maintenance of procedures reasonably adapted

15 USC 1635.

to avoid any such error. Examples of a bona fide error include, but are not limited to, clerical, calculation, computer malfunction and programing, and printing errors, except that an error of legal judgment with respect to a person's obligations under this title is not a bona fide error.

"(d) When there are multiple obligors in a consumer credit transaction or consumer lease, there shall be no more than one recovery of damages under subsection (a)(2) for a violation of this title.";

(4) in subsection (e), by adding at the end thereof the following new sentence: "This subsection does not bar a person from asserting a violation of this title in an action to collect the debt which was brought more than one year from the date of the occurrence of the violation as a matter of defense by recoupment or set-off in such action, except as otherwise provided by State law.";

(5) in subsection (f), by inserting ", section 108(b), section 108(c), section 108(e)," after "this section"; 15 USC 1607. *Ante*, p. 171.

(6) in subsection (g), by adding at the end thereof the following new sentence: "This subsection does not bar any remedy permitted by section 125."; and 15 USC 1635.

(7) by amending subsection (h) to read as follows:

"(h) A person may not take any action to offset any amount for which a creditor or assignee is potentially liable to such person under subsection (a)(2) against any amount owed by such person, unless the amount of the creditor's or assignee's liability under this title has been determined by judgment of a court of competent jurisdiction in an action of which such person was a party. This subsection does not bar a consumer then in default on the obligation from asserting a violation of this title as an original action, or as a defense or counterclaim to an action to collect amounts owed by the consumer brought by a person liable under this title.".

(b) Section 130(a) of the Truth in Lending Act (15 U.S.C. 1640(a)) is amended—

(1) by inserting ", including any requirement under section 125," immediately after "this chapter"; and

(2) by adding at the end thereof the following: "In connection with the disclosures referred to in section 127, a creditor shall have a liability determined under paragraph (2) only for failing to comply with the requirements of section 125, section 127(a), or of paragraph (4), (5), (6), (7), (8), (9), or (10) of section 127(b) or for failing to comply with disclosure requirements under State law for any term or item which the Board has determined to be substantially the same in meaning under section 111(a)(2) as any of the terms or items referred to in section 127(a) or any of those paragraphs of section 127(b). In connection with the disclosures referred to in section 128, a creditor shall have a liability determined under paragraph (2) only for failing to comply with the requirements of section 125 or of paragraph (2) (insofar as it requires a disclosure of the 'amount financed'), (3), (4), (5), (6), or (9) of section 128(a), or for failing to comply with disclosure requirements under State law for any term which the Board has determined to be substantially the same in meaning under section 111(a)(2) as any of the terms referred to in any of those paragraphs of section 128(a). With respect to any failure to make disclosures required under this chapter or chapter 4 or 5 of this title, liability shall be imposed only upon the creditor required to make disclosure, except as provided in section 131.". 15 USC 1637. *Ante*, p. 176. *Ante*, p. 177. *Ante*, p. 173. 15 USC 1638. *Ante*, p. 178. 15 USC 1631 *et seq.*, 1666 *et seq.*, 1667 *et seq.* *Post*, p. 182.

LIABILITY OF ASSIGNEES

SEC. 616. (a) Section 131 of the Truth in Lending Act (15 U.S.C. 1641) is amended to read as follows:

"§ 131. Liability of assignees

15 USC 1607. "(a) Except as otherwise specifically provided in this title, any civil action for a violation of this title or proceeding under section 108 which may be brought against a creditor may be maintained against any assignee of such creditor only if the violation for which such action or proceeding is brought is apparent on the face of the disclosure statement, except where the assignment was involuntary. For the purpose of this section, a violation apparent on the face of the disclosure statement includes, but is not limited to (1) a disclosure which can be determined to be incomplete or inaccurate from the face of the disclosure statement or other documents assigned, or (2) a disclosure which does not use the terms required to be used by this title.

Ante, p. 176. "(b) Except as provided in section 125(c), in any action or proceeding by or against any subsequent assignee of the original creditor without knowledge to the contrary by the assignee when he acquires the obligation, written acknowledgement of receipt by a person to whom a statement is required to be given pursuant to this title shall be conclusive proof of the delivery thereof and, except as provided in subsection (a), of compliance with this chapter. This section does not affect the rights of the obligor in any action against the original creditor.

15 USC 1635. "(c) Any consumer who has the right to rescind a transaction under section 125 may rescind the transaction as against any assignee of the obligation.".

Repeal. (b) Section 115 of the Truth in Lending Act (15 U.S.C. 1614) is hereby repealed.

(c)(1) The table of sections at the beginning of chapter 1 of the Truth in Lending Act is amended by striking out the item relating to section 115 and inserting in lieu thereof the following:

"115. [Repealed].".

(2) The table of sections at the beginning of chapter 2 of the Truth in Lending Act is amended by striking out the item relating to section 131 and inserting in lieu thereof the following:

"131. Liability of assignees.".

LIABILITY OF CREDIT CARDHOLDER

SEC. 617. Section 133(a) of the Truth in Lending Act (15 U.S.C. 1643(a)) is amended to read as follows:

"(a)(1) A cardholder shall be liable for the unauthorized use of a credit card only if—

"(A) the card is an accepted credit card;

"(B) the liability is not in excess of $50;

"(C) the card issuer gives adequate notice to the cardholder of the potential liability;

"(D) the card issuer has provided the cardholder with a description of a means by which the card issuer may be notified of loss or theft of the card, which description may be provided on the face or reverse side of the statement required by section 127(b) or on a separate notice accompanying such statement;

"(E) the unauthorized use occurs before the card issuer has been notified that an unauthorized use of the credit card has

occurred or may occur as the result of loss, theft, or otherwise; and

"(F) the card issuer has provided a method whereby the user of such card can be identified as the person authorized to use it.

"(2) For purposes of this section, a card issuer has been notified when such steps as may be reasonably required in the ordinary course of business to provide the card issuer with the pertinent information have been taken, whether or not any particular officer, employee, or agent of the card issuer does in fact receive such information.".

DISSEMINATION OF ANNUAL PERCENTAGE RATES

SEC. 618. (a) Chapter 2 of the Truth in Lending Act (15 U.S.C. 1631 et seq.) is amended by adding at the end thereof the following new section:

"§ 136. Dissemination of annual percentage rates 15 USC 1646.

"(a) The Board shall collect, publish, and disseminate to the public, on a demonstration basis in a number of standard metropolitan statistical areas to be determined by the Board, the annual percentage rates charged for representative types of nonsale credit by creditors in such areas. For the purpose of this section, the Board is authorized to require creditors in such areas to furnish information necessary for the Board to collect, publish, and disseminate such information.

"(b) The Board is authorized to enter into contracts or other arrangements with appropriate persons, organizations, or State agencies to carry out its functions under subsection (a) and to furnish financial assistance in support thereof.".

(b) The table of sections contained at the beginning of such chapter is amended by adding at the end thereof the following new item:

"136. Dissemination of annual percentage rates.".

CREDIT ADVERTISING

SEC. 619. (a) Section 143 of the Truth in Lending Act (15 U.S.C. 1662) is amended to read as follows:

"§ 143. Advertising of open end credit plans 15 USC 1663.

"No advertisement to aid, promote, or assist directly or indirectly the extension of consumer credit under an open end credit plan may set forth any of the specific terms of that plan unless it also clearly and conspicuously sets forth all of the following items:

"(1) Any minimum or fixed amount which could be imposed.

"(2) In any case in which periodic rates may be used to compute the finance charge, the periodic rates expressed as annual percentage rates.

"(3) Any other term that the Board may by regulation require to be disclosed.".

(b) Section 144(d) of the Truth in Lending Act (15 U.S.C. 1664) is amended by striking out paragraphs (1) through (4) thereof, and inserting in lieu thereof the following:

"(1) The downpayment, if any.

"(2) The terms of repayment.

"(3) The rate of the finance charge expressed as an annual percentage rate.".

CORRECTION OF BILLING ERRORS

SEC. 620. (a) Section 161(b) of the Truth in Lending Act (15 U.S.C. 1666(b)) is amended—

(1) by redesignating paragraph (6) as paragraph (7); and

(2) by inserting after paragraph (5) the following:

"(6) Failure to transmit the statement required under section 127(b) of this Act to the last address of the obligor which has been disclosed to the creditor, unless that address was furnished less than twenty days before the end of the billing cycle for which the statement is required.".

(b) Section 161(c) of the Truth in Lending Act (15 U.S.C. 1666(c)) is amended by inserting ", which may include finance charges on amounts in dispute," after "of statements of account".

CREDIT BALANCES

SEC. 621. (a) Section 165 of the Truth in Lending Act (15 U.S.C. 1666d) is amended to read as follows:

"§ 165. Treatment of credit balances

"Whenever a credit balance in excess of $1 is created in connection with a consumer credit transaction through (1) transmittal of funds to a creditor in excess of the total balance due on an account, (2) rebates of unearned finance charges or insurance premiums, or (3) amounts otherwise owed to or held for the benefit of an obligor, the creditor shall—

"(A) credit the amount of the credit balance to the consumer's account;

"(B) refund any part of the amount of the remaining credit balance, upon request of the consumer; and

"(C) make a good faith effort to refund to the consumer by cash, check, or money order any part of the amount of the credit balance remaining in the account for more than six months, except that no further action is required in any case in which the consumer's current location is not known by the creditor and cannot be traced through the consumer's last known address or telephone number.".

(b) The table of sections at the beginning of chapter 4 of the Truth in Lending Act is amended by striking out the item relating to section 165 and inserting in lieu thereof the following:

"165. Treatment of credit balances.".

GOVERNMENT EXEMPTION

SEC. 622. (a) Section 113 of the Truth in Lending Act (15 U.S.C. 1612) is amended to read as follows:

"§ 113. Effect on governmental agencies

"(a) Any department or agency of the United States which administers a credit program in which it extends, insures, or guarantees consumer credit and in which it provides instruments to a creditor which contain any disclosures required by this title shall, prior to the issuance or continued use of such instruments, consult with the Board to assure that such instruments comply with this title.

"(b) No civil or criminal penalty provided under this title for any violation thereof may be imposed upon the United States or any

department or agency thereof, or upon any State or political subdivision thereof, or any agency of any State or political subdivision.

"(c) A creditor participating in a credit program administered, insured, or guaranteed by any department or agency of the United States shall not be held liable for a civil or criminal penalty under this title in any case in which the violation results from the use of an instrument required by any such department or agency.

"(d) A creditor participating in a credit program administered, insured, or guaranteed by any department or agency of the United States shall not be held liable for a civil or criminal penalty under the laws of any State (other than laws determined under section 111 to be inconsistent with this title) for any technical or procedural failure, such as a failure to use a specific form, to make information available at a specific place on an instrument, or to use a specific typeface, as required by State law, which is caused by the use of an instrument required to be used by such department or agency.". 15 USC 1610.

(b) The table of sections at the beginning of chapter 1 of the Truth in Lending Act is amended by striking out the item relating to section 113 and inserting in lieu thereof the following:

"113. Effect on governmental agencies.".

ORAL DISCLOSURES

SEC. 623. (a) Section 146 of the Truth in Lending Act (15 U.S.C. 1665a) is amended to read as follows:

"§ 146. Use of annual percentage rate in oral disclosures

"In responding orally to any inquiry about the cost of credit, a creditor, regardless of the method used to compute finance charges, shall state rates only in terms of the annual percentage rate, except that in the case of an open end credit plan, the periodic rate also may be stated and, in the case of an other than open end credit plan where a major component of the finance charge consists of interest computed at a simple annual rate, the simple annual rate also may be stated. The Board may, by regulation, modify the requirements of this section or provide an exception from this section for a transaction or class of transactions for which the creditor cannot determine in advance the applicable annual percentage rate.".

(b) The table of sections at the beginning of chapter 3 of the Truth in Lending Act is amended by striking out the item relating to section 146 and inserting in lieu thereof the following:

"146. Use of annual percentage rate in oral disclosures.".

CONSUMER LEASING

SEC. 624. Section 185(b) of the Truth in Lending Act (15 U.S.C. 1667d(b)) is amended by striking out "sections 115, 130, and 131" and inserting in lieu thereof "sections 130 and 131". 15 USC 1640; *Ante*, p. 182.

EFFECTIVE DATE

SEC. 625. (a) Except as provided in section 608(b), the amendments made by this title shall take effect upon the expiration of two years after the date of enactment of this title. 15 USC 1602 note. *Ante*, p. 171.

(b) All regulations, forms, and clauses required to be prescribed under the amendments made by this title shall be promulgated at least one year prior to such effective date.

(c) Notwithstanding subsections (a) and (b), any creditor may comply with the amendments made by this title, in accordance with the regulations, forms, and clauses prescribed by the Board, prior to such effective date.

TITLE VII—AMENDMENTS TO THE NATIONAL BANKING LAWS

PART A—NATIONAL BANKING LAWS

POWER TO HOLD REAL PROPERTY OR INTERESTS IN REAL PROPERTY

SEC. 701. (a) Section 5137 of the Revised Statutes (12 U.S.C. 29) is amended—

(1) by inserting before the period at the end of the last paragraph thereof the following: "except as otherwise provided in this section"; and

(2) by adding at the end thereof the following new paragraph: "For real estate in the possession of a national banking association upon application by the association, the Comptroller of the Currency may approve the possession of any such real estate by such association for a period longer than five years, but not to exceed an additional five years, if (1) the association has made a good faith attempt to dispose of the real estate within the five-year period, or (2) disposal within the five-year period would be detrimental to the association. Upon notification by the association to the Comptroller of the Currency that such conditions exist that require the expenditure of funds for the development and improvement of such real estate, and subject to such conditions and limitations as the Comptroller of the Currency shall prescribe, the association may expend such funds as are needed to enable such association to recover its total investment.".

(b) Section 4(a) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(a)) is amended by adding at the end thereof the following: "Notwithstanding any other provision of this Act, the period ending December 31, 1980, referred to in paragraph (2) above, may be extended by the Board of Governors to December 31, 1982, but only for the divestiture by a bank holding company of real estate or interests in real estate lawfully acquired for investment or development. In making its decision whether to grant such extension, the Board shall consider whether the company has made a good faith effort to divest such interests and whether such extension is necessary to avert substantial loss to the company.".

DIVIDENDS ON PREFERRED STOCK

SEC. 702. The first sentence of subsection (a) of section 302 of the Act entitled "An Act to provide relief in the existing national emergency in banking, and for other purposes", approved March 9, 1933 (12 U.S.C. 51b), is amended by striking out "at a rate not exceeding 6 per centum per annum".

CONSIDERATION OF PREFERRED STOCK IN DETERMINING IMPAIRMENT OF CAPITAL

SEC. 703. The third sentence of section 345 of the Banking Act of 1935 (12 U.S.C. 51b-1) is amended by striking out "at a rate not exceeding six per centum per annum".

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REVOCATION OF TRUST POWERS

SEC. 704. The first section of the Act of September 28, 1962 (76 Stat. 668; 12 U.S.C. 92a), is amended by adding at the end thereof the following new subsection:

"(k)(1) In addition to the authority conferred by other law, if, in the opinion of the Comptroller of the Currency, a national banking association is unlawfully or unsoundly exercising, or has unlawfully or unsoundly exercised, or has failed for a period of five consecutive years to exercise, the powers granted by this section or otherwise fails or has failed to comply with the requirements of this section, the Comptroller may issue and serve upon the association a notice of intent to revoke the authority of the association to exercise the powers granted by this section. The notice shall contain a statement of the facts constituting the alleged unlawful or unsound exercise of powers, or failure to exercise powers, or failure to comply, and shall fix a time and place at which a hearing will be held to determine whether an order revoking authority to exercise such powers should issue against the association. Notice of intent. Hearing.

"(2) Such hearing shall be conducted in accordance with the provisions of subsection (h) of section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818(h)), and subject to judicial review as provided in such section, and shall be fixed for a date not earlier than thirty days nor later than sixty days after service of such notice unless an earlier or later date is set by the Comptroller at the request of any association so served. Judicial review.

"(3) Unless the association so served shall appear at the hearing by a duly authorized representative, it shall be deemed to have consented to the issuance of the revocation order. In the event of such consent, or if upon the record made at any such hearing, the Comptroller shall find that any allegation specified in the notice of charges has been established, the Comptroller may issue and serve upon the association an order prohibiting it from accepting any new or additional trust accounts and revoking authority to exercise any and all powers granted by this section, except that such order shall permit the association to continue to service all previously accepted trust accounts pending their expeditious divestiture or termination.

"(4) A revocation order shall become effective not earlier than the expiration of thirty days after service of such order upon the association so served (except in the case of a revocation order issued upon consent, which shall become effective at the time specified therein), and shall remain effective and enforceable, except to such extent as it is stayed, modified, terminated, or set aside by action of the Comptroller or a reviewing court.". Revocation orders, effective date.

EMERGENCY LIMITATIONS AND RESTRICTIONS ON BUSINESS OF MEMBER BANKS

SEC. 705. Section 4 of the Act of March 9, 1933 (48 Stat. 2; 12 U.S.C. 95), is amended—

(1) by inserting "(a)" after "SEC. 4."; and

(2) by adding at the end thereof the following:

"(b)(1) In the event of natural calamity, riot, insurrection, war, or other emergency conditions occurring in any State whether caused by acts of nature or of man, the Comptroller of the Currency may designate by proclamation any day a legal holiday for the national banking associations located in that State. In the event that the emergency conditions affect only part of a State, the Comptroller of Legal holidays, designation.

the Currency may designate the part so affected and may proclaim a legal holiday for the national banking associations located in that affected part. In the event that a State or a State official authorized by law designates any day as a legal holiday for either emergency or ceremonial reasons for all banks chartered by that State to do business within that State, that same day shall be a legal holiday for all national banking associations chartered to do business within that State unless the Comptroller of the Currency shall by written order permit all national banking associations located in that State to remain open.

"State."

"(2) For the purpose of this subsection, the term 'State' means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, or any other territory or possession of the United States.".

PROCEDURE FOR CONVERSION, MERGER, OR CONSOLIDATION

SEC. 706. The second sentence of subsection (b) of section 2 of the Act of August 17, 1950 (64 Stat. 456; 12 U.S.C. 214a(b)), is amended by striking out "unanimous" and inserting in lieu thereof "majority".

DELEGATION OF AUTHORITY

SEC. 707. (a) Chapter 9 of title VII of the Revised Statutes (12 U.S.C. 1 et seq.) is amended by inserting after section 327 the following new section:

12 USC 4a.

"SEC. 327A. The Comptroller of the Currency may delegate to any duly authorized employee, representative, or agent any power vested in the office by law.".

(b) The table of contents contained at the beginning of chapter 9 of title VII of the Revised Statutes is amended by inserting after the item relating to section 327 the following new item:

"327A. Delegation of authority.".

AUTHORITY TO PRESCRIBE REGULATIONS

SEC. 708. Chapter 4 of title LXII of the Revised Statutes (12 U.S.C. 21 et seq.) is amended by inserting immediately following section 5239 a new section 5239A to read as follows:

12 USC 93a.

"SEC. 5239A. Except to the extent that authority to issue such rules and regulations has been expressly and exclusively granted to another regulatory agency, the Comptroller of the Currency is authorized to prescribe rules and regulations to carry out the responsibilities of the office, except that the authority conferred by this section does not apply to section 5155 of the Revised Statutes or to securities activities of National Banks under the Act commonly known as the 'Glass-Steagall Act'.".

12 USC 36.

EXAMINATION OF NATIONAL BANKING ASSOCIATIONS

SEC. 709. (a) Section 5240 of the Revised Statutes (12 U.S.C. 481) is amended by striking out the first two sentences and inserting in lieu thereof the following: "The Comptroller of the Currency, with the approval of the Secretary of the Treasury, shall appoint examiners who shall examine every national bank as often as the Comptroller of the Currency shall deem necessary.".

Foreign operations.

(b) Section 5240 of the Revised Statutes (12 U.S.C. 481) is amended by adding at the end thereof the following new sentence: "The

Comptroller of the Currency, upon the request of the Board of Governors of the Federal Reserve System, is authorized to assign examiners appointed under this section to examine foreign operations of State banks which are members of the Federal Reserve System.".

OWNERSHIP INTEREST OF DIRECTORS OF NATIONAL BANKS

SEC. 710. The second sentence of section 5146 of the Revised Statutes (12 U.S.C. 72) is amended by striking out the second sentence and inserting in lieu thereof the following: "Every director must own in his or her own right either shares of the capital stock of the association of which he or she is a director the aggregate par value of which is not less than $1,000, or an equivalent interest, as determined by the Comptroller of the Currency, in any company which has control over such association within the meaning of section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841). If the capital of the bank does not exceed $25,000, every director must own in his or her own right either shares of such capital stock the aggregate par value of which is not less than $500, or an equivalent interest, as determined by the Comptroller of the Currency, in any company which has control over such association within the meaning of section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841).".

PURCHASE OF STOCK IN BANKERS' BANKS

SEC. 711. The paragraph numbered "Seventh" of section 5136 of the Revised Statutes (12 U.S.C. 24(7)) is amended by inserting before the period at the end thereof the following: ": *Provided further,* That, notwithstanding any other provision of this paragraph, the association may purchase for its own account shares of stock of a bank insured by the Federal Deposit Insurance Corporation if the stock of such bank is owned exclusively by other banks (except to the extent State law requires directors qualifying shares) and if such bank is engaged exclusively in providing banking services for other banks and their officers, directors, or employees, but in no event shall the total amount of such stock held by the association exceed at any time 10 per centum of its capital stock and paid in and unimpaired surplus, and in no event shall the purchase of such stock result in the association's acquiring more than 5 per centum of any class of voting securities of such bank".

INTERSTATE TRUST OPERATIONS

SEC. 712. (a) Section 5169 of the Revised Statutes (12 U.S.C. 27) is amended by adding at the end thereof the following: "Notwithstanding the provisions of the preceding sentence, a national banking association the operations of which are limited as provided in the preceding sentence shall be deemed an additional bank within the contemplation of section 3 of the Bank Holding Company Act of 1956.".

12 USC 1842.

(b) Section 3(d) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(d)) is amended by inserting "(1)" after "(d)" and by adding at the end thereof the following:

"(2)(A) Except as provided in subparagraph (B), the restrictions contained in paragraph (1) regarding the acquisition of shares or assets of, or interests in, an additional bank shall apply to the acquisition of shares or assets of, or interests in, a trust company.

"(B) Subparagraph (A) shall not apply with respect to the acquisition of shares or assets of, or interests in, a trust company if such acquisition was approved by the Board on or before March 5, 1980, and if such trust company opened for business and was operating on or before March 5, 1980.

"Trust company."

"(C) For the purpose of this paragraph, the term 'trust company' means any company whose powers are limited to the powers specified in subsection (a) of the first section of the Act entitled 'An Act to place authority over the trust powers of national banks in the Comptroller of the Currency', approved September 28, 1962 (12 U.S.C. 92a), for a national bank located in the same State in which such trust company is located.".

Termination date.

(c) The amendments made by this section are hereby repealed on October 1, 1981.

LOANS FOR THE FORMATION OF A ONE-BANK HOLDING COMPANY

SEC. 713. Section 3(c) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(c)) is amended by adding at the end thereof the following: "Notwithstanding any other provision of law, the Board shall not follow any practice or policy in the consideration of any application for the formation of a one-bank holding company if following such practice or policy would result in the rejection of such application solely because the transaction to form such one-bank holding company involves a bank stock loan which is for a period of not more than twenty-five years. The previous sentence shall not be construed to prohibit the Board from rejecting any application solely because the other financial arrangements are considered unsatisfactory. The Board shall consider transactions involving bank stock loans for the formation of a one-bank holding company having a maturity of twelve years or more on a case by case basis and no such transaction shall be approved if the Board believes the safety or soundness of the bank may be jeopardized.".

PART B—TERMINATION OF NATIONAL BANK CLOSED RECEIVERSHIP FUND

PURPOSE

12 USC 191 note.

SEC. 721. The purpose of this part is to terminate the closed receivership fund by—

(1) providing final notice of availability of liquidating dividends to creditors of national banks closed on or before January 22, 1934;

(2) barring rights of creditors to collect liquidating dividends from the Comptroller of the Currency after a reasonable period of time following such final notice; and

(3) refunding to the Comptroller the principal amount of such fund and any income earned thereon.

DEFINITIONS

12 USC 191 note.

SEC. 722. For purposes of this part—

(1) the term "closed receivership fund" means the aggregation of undisbursed liquidating dividends from national banks closed on or before January 22, 1934, held by the Comptroller in his capacity as successor to receivers of those banks;

(2) the term "Comptroller" means the Comptroller of the Currency;

(3) the term "claimant" means a depositor or other creditor who asserts a claim against a closed national bank for a liquidating dividend; and

(4) the term "liquidating dividend" means an amount of money in the closed receivership fund determined by a receiver of a closed national bank or by the Comptroller to be owed by that bank to a depositor or other creditor.

TERMINATION OF CLOSED RECEIVERSHIP FUND

SEC. 723. (a) The Comptroller shall publish notice once a week for four weeks in the Federal Register that all rights of depositors and other creditors of closed national banks to collect liquidating dividends from the closed receivership fund shall be barred after twelve months following the last date of publication of such notice. Notice, publication in Federal Register. 12 USC 191 note.

(b) The Comptroller shall pay the principal amount of a liquidating dividend, exclusive of any income earned thereon, to a claimant presenting a valid claim, if the claimant applies to collect within twelve months following the last date notice is published.

(c) If a creditor shall fail to apply to collect a liquidating dividend within twelve months after the last date notice is published, all rights of the claimant against the closed receivership fund with respect to the liquidating dividend shall be barred.

(d) The principal amount of any liquidating dividends (1) for which claims have not been asserted within twelve months following the last date notice is published or (2) for which the Comptroller has determined a valid claim has not been submitted shall, together with any income earned on liquidating dividends and other moneys, if any, remaining in the closed receivership fund, be covered into the general funds of the Comptroller.

TITLE VIII—REGULATORY SIMPLIFICATION

Financial Regulation Simplification Act of 1980.

SHORT TITLE

SEC. 801. This title may be cited as the "Financial Regulation Simplification Act of 1980". 12 USC 3501 note.

FINDINGS

SEC. 802. The Congress hereby finds that many regulations issued by the Board of Governors of the Federal Reserve System, the Board of Directors of the Federal Deposit Insurance Corporation, the Comptroller of the Currency, the Federal Home Loan Bank Board, and the National Credit Union Administration Board (hereinafter in this title referred to as the "Federal financial regulatory agencies") often impose costly, duplicative, and unnecessary burdens on both financial institutions and consumers. Regulations should be simple and clearly written. Regulations should achieve legislative goals effectively and efficiently. Regulations should not impose unnecessary costs and paperwork burdens on the economy, on financial institutions, or on consumers. 12 USC 3521. "Federal financial regulatory agencies."

POLICY

SEC. 803. Any regulation issued by the Federal financial regulatory agencies shall, to the maximum extent practicable, insure that— 12 USC 3522.

(1) the need for and purpose of such regulation is established clearly;

(2) meaningful alternatives to the promulgation of such regulation are considered before such regulation is issued;

(3) compliance costs, paperwork, and other burdens on the financial institutions, consumers, and public are minimized;

(4) conflicts, duplication, and inconsistencies between the regulations issued by the Federal financial regulatory agencies are to be avoided to the extent possible taking into account differences in statutory responsibilities, the classes of financial institutions' regulation and methods of implementation of statutory or policy objectives;

(5) timely participation and comment by other Federal agencies, appropriate State and local agencies, financial institutions, and consumers are available; and

(6) any regulation issued shall be as simple and clearly written as possible and understandable by those who are subject to such regulation.

REVIEW OF EXISTING REGULATIONS

12 USC 3523.

SEC. 804. The Federal financial regulatory agencies shall establish a program which assures periodic review of existing regulations to determine whether those regulations achieve the policies stated in section 803. Those regulations which are not in keeping with such policies shall be revised accordingly.

REPORTING

Report to congressional committees. 12 USC 3524.

SEC. 805. Not later than six months after the date of enactment of this title and in subsequent annual reports, each Federal financial regulatory agency shall submit a report of its progress in implementing this title to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

TERMINATION DATE

12 USC 3521 note.

SEC. 806. This title is hereby repealed five years after the date of enactment of this title.

TITLE IX—FOREIGN CONTROL OF UNITED STATES FINANCIAL INSTITUTIONS

DEFINITIONS

12 USC 3101 note.

SEC. 901. For purposes of this title—

(1) the term "domestic financial institution" means any bank, mutual savings bank, or savings and loan association organized under the laws of any State or of the United States;

(2) the term "foreign person" means any foreign organization or any individual resident in a foreign country or any organization or individual owned or controlled by such an organization or individual; and

(3) the term "takeover" means any acquisition of the stock or assets of any domestic financial institution if, after such acquisition, the amount of stock or assets held is 5 per centum or more of the institution's stock or assets.

MORATORIUM

SEC. 902. The Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Board of Directors of the Federal Deposit Insurance Corporation, and the Federal Home Loan Bank Board may not approve any application relating to the takeover of any domestic financial institution by a foreign person until July 1, 1980, unless— 12 USC 3101 note.

(1) such takeover is necessary to prevent the bankruptcy or insolvency of the domestic financial institution involved;

(2) the application was initially submitted for filing on or before March 5, 1980;

(3) the domestic financial institution has deposits of less than $100,000,000;

(4) the application relates to a takeover of shares or assets pursuant to a foreign person's intrafirm reorganization of its interests in a domestic financial institution, including specifically any application to establish a bank holding company pursuant to such reorganization;

(5) the application relates to a takeover of the assets or shares of a domestic financial institution if such assets or shares are owned or controlled by a foreign person; or

(6) the application relates to the takeover of a domestic financial institution which is a subsidiary of a bank holding company under an order to divest by December 31, 1980.

Approved March 31, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-842 (Comm. of Conference).
SENATE REPORTS: No. 96-368 (Comm. on Banking, Housing, and Urban Affairs) and No. 96-640 (Comm. of Conference).
CONGRESSIONAL RECORD:
Vol. 125 (1979): Sept. 10, 11, considered and passed House.
Oct. 23, 29, 31, Nov. 1, considered and passed Senate, amended.
Nov. 7, House concurred in Senate amendment with amendments.
Vol. 126 (1980): Mar. 27, House agreed to conference report.
Mar. 27, 28, Senate agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:
Vol. 16, No. 14 (1980): Mar. 31, Presidential statement.

Public Law 96-222
96th Congress

An Act

Apr. 1, 1980
[H.R. 2797]

To make technical corrections related to the Revenue Act of 1978.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Technical Corrections Act of 1979.

SECTION 1. SHORT TITLE, ETC.

26 USC 1 note.

(a) SHORT TITLE.—This Act may be cited as the "Technical Corrections Act of 1979".

(b) AMENDMENT OF 1954 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

26 USC 1 *et seq.*

26 USC 1 note.

SEC. 2. COORDINATION OF ENACTMENT DATES OF REVENUE ACT OF 1978 AND ENERGY TAX ACT OF 1978.

The Revenue Act of 1978 is amended by inserting after section 3 the following new section:

26 USC 46 note.

"SEC. 4. COORDINATION OF ENACTMENT DATES WITH ENERGY TAX ACT OF 1978.

26 USC 46, 48.
26 USC 1 note.

"For purposes of applying the amendments made by this Act to sections 46 and 48 of the Internal Revenue Code of 1954, the Energy Tax Act of 1978 shall be deemed to have been enacted immediately before this Act."

TITLE I—AMENDMENTS RELATED TO REVENUE ACT OF 1978

SEC. 101. AMENDMENTS RELATED TO TITLE I.

(a) GENERAL RULE.—

26 USC 43.

(1) AMENDMENT RELATED TO SECTION 104 OF THE ACT.—Subparagraph (C) of section 43(c)(1) (relating to individual entitled to exclude income under section 911 not eligible individual) is amended to read as follows:

"(C) INDIVIDUAL WHO CLAIMS BENEFITS OF SECTION 911, 913, OR 931 NOT ELIGIBLE INDIVIDUAL.—The term 'eligible individual' does not include an individual who, for the taxable year, claims the benefits of—

"(i) section 911 (relating to income earned by individuals in certain camps outside the United States),

"(ii) section 913 (relating to deduction for certain expenses of living abroad), or

"(iii) section 931 (relating to income from sources within possessions of the United States)."

(2) AMENDMENTS RELATED TO SECTION 105 OF THE ACT.— 92 Stat. 2773.

(A) PAYMENTS TREATED AS EARNED INCOME FOR AFDC.—Section 402 of the Social Security Act is amended by adding at the end thereof the following new subsection: 42 USC 602.

"(d)(1) For purposes of paragraphs (7) and (8) of subsection (a), any refund of Federal income taxes made by reason of section 43 of the Internal Revenue Code of 1954 (relating to earned income credit) and any payment made by an employer under section 3507 of such Code (relating to advance payment of earned income credit) shall be considered earned income. 26 USC 43.

"(2) In any case in which such advance payments for a taxable year made by all employers to an individual under section 3507 of such Code exceed the amount of such individual's earned income credit allowable under section 43 of such Code for such year, so that such individual is liable under section 43(g) of such Code for a tax equal to such excess, such individual's benefit amount must be appropriately adjusted so as to provide payment to such individual of an amount equal to the amount of the benefits lost by such individual on account of such excess advance payments."

(B) PAYMENT TREATED AS EARNED INCOME FOR SSI.—Section 1612(a)(1) of the Social Security Act is amended— 42 USC 1382a.

(i) by striking out "and" at the end of subparagraph (A); and

(ii) by adding after subparagraph (B) the following new subparagraph:

"(C) any refund of Federal income taxes made by reason of section 43 of the Internal Revenue Code of 1954 (relating to earned income credit) and any payment made by an employer under section 3507 of such Code (relating to advance payment of earned income credit); and". 26 USC 43.

(C) TREATMENT OF EXCESS PAYMENTS UNDER SSI.—Section 1631(b) of the Social Security Act is amended by inserting "(1)" after "(b)" and by adding at the end thereof the following new paragraph: 42 USC 1383.

"(2) In any case in which advance payments for a taxable year made by all employers to an individual under section 3507 of the Internal Revenue Code of 1954 (relating to advance payment of earned income credit) exceed the amount of such individual's earned income credit allowable under section 43 of such Code for such year, so that such individual is liable under section 43(g) of such Code for a tax equal to such excess, the Secretary shall provide for an appropriate adjustment of such individual's benefit amount under this title so as to provide payment to such individual of an amount equal to the amount of such benefits lost by such individual on account of such excess advance payments." 26 USC 3507.

(D) EFFECTIVE DATE FOR ADVANCE PAYMENT OF EARNED INCOME CREDIT.—Paragraph (2) of section 105(g) of the Revenue Act of 1978 (relating to effective date for advance payment of earned income credit) is amended by striking out "June 30, 1978" and inserting in lieu thereof "June 30, 1979". 26 USC 3507 note.

(E) CLERICAL AMENDMENT.—Subsection (h) of section 43 (relating to coordination with advance payments of earned income credit) is redesignated as subsection (g). 26 USC 43.

(3) AMENDMENT RELATED TO SECTION 112 OF THE ACT.—Paragraph (8) of section 128(a) (relating to cross references) is amended by striking out "benefits, see" and inserting in lieu thereof "benefits which are not includible in gross income under section 85,". 92 Stat. 2777. 26 USC 128.

26 USC 457.

(4) AMENDMENT RELATED TO SECTION 131 OF THE ACT.—Subparagraph (B) of section 457(d)(9) (relating to application to rural electric cooperatives of rules for eligible State deferred compensation plans) is amended to read as follows:

"(B) RURAL ELECTRIC COOPERATIVE DEFINED.—For purposes of subparagraph (A), the term 'rural electric cooperative' means—

"(i) any organization which is exempt from tax under section 501(a) and which is engaged primarily in providing electric service on a mutual or cooperative basis, and

"(ii) any organization described in paragraph (4) or (6) of section 501(c) which is exempt from tax under section 501(a) and at least 80 percent of the members of which are organizations described in clause (i)."

92 Stat. 2783.

(5) AMENDMENT RELATED TO SECTION 133 OF THE ACT.—Subsection (c) of section 133 of the Revenue Act of 1978 (relating to effective date for clarification of deductibility of payments of deferred compensation, etc., to independent contractors) is amended to read as follows:

26 USC 404 note.

"(c) EFFECTIVE DATES.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to deductions for taxable years beginning after December 31, 1978.

"(2) SPECIAL RULE FOR CERTAIN TITLE INSURANCE COMPANIES.—

"(A) IN GENERAL.—In the case of a qualified title insurance company plan, the amendment made by subsection (a) shall apply to deductions for taxable years beginning after December 31, 1979.

"(B) QUALIFIED TITLE INSURANCE COMPANY PLAN.—For purposes of subparagraph (A), the term 'qualified title insurance company plan' means a plan of a qualified title insurance company—

"(i) which defers the payment of amounts credited by such company to separate accounts for members of such company in consideration of their issuance of policies of title insurance, and

"(ii) under which no part of such amounts is payable to or withdrawable by the members until after the period for the adverse possession of real property under applicable State law.

"(C) QUALIFIED TITLE INSURANCE COMPANY.—For purposes of subparagraph (B), the term 'qualified title insurance company' means an unincorporated title insurance company organized as a business trust—

"(i) which is engaged in the business of providing title insurance coverage on interests in and liens upon real property obtained by clients of the members of such company, and

"(ii) which is subject to tax under section 831 of the Internal Revenue Code of 1954."

26 USC 831.

92 Stat. 2783.

(6) AMENDMENTS RELATED TO SECTION 134 OF THE ACT.—

26 USC 125.

(A) EMPLOYMENT REQUIREMENT.—Subparagraph (B) of section 125(g)(3) (relating to certain participation eligibility rules not treated as discriminatory) is amended by striking out "service requirement" each place it appears and inserting in lieu thereof "employment requirement".

(B) EFFECTIVE DATE.—Subsection (c) of section 134 of the Revenue Act of 1978 is amended by striking out "taxable years" and inserting in lieu thereof "plan years". 26 USC 125 note.

(7) AMENDMENTS RELATED TO SECTION 141 OF THE ACT.— 92 Stat. 2787.

(A) AMENDMENT TO ANTI-FLOW-THROUGH RULES.—Paragraph (9) of section 46(f) (relating to special rule for additional credit) is amended— 26 USC 46.

(i) by striking out "subparagraph (B) of subsection (a)(2)" each place it appears and inserting in lieu thereof "subparagraph (E) of subsection (a)(2)", and

(ii) by striking out "an employee stock ownership plan which meets the requirements of section 301(d) of the Tax Reduction Act of 1975" in subparagraph (A) and inserting in lieu thereof "a tax credit employee stock ownership plan which meets the requirements of section 409A".

(B) CLARIFICATION OF EFFECTIVE DATE.—Section 141 of the Revenue Act of 1978 (relating to ESOPS) is amended by striking out subsection (g) and inserting in lieu thereof the following new subsections:

"(g) EFFECTIVE DATES FOR TAX CREDIT EMPLOYEE STOCK OWNERSHIP PLANS.— 26 USC 409A note.

"(1) IN GENERAL.—Except as otherwise provided in this subsection and subsection (h), the amendments made by this section shall apply with respect to qualified investment for taxable years beginning after December 31, 1978.

"(2) ELECTION TO HAVE AMENDMENTS APPLY DURING 1978.—At the election of the taxpayer, paragraph (1) shall be applied by substituting 'December 31, 1977' for 'December 31, 1978'; except that in the case of a plan in existence before December 31, 1978, any such election shall not affect the required allocation of employer securities attributable to qualified investment for taxable years beginning before January 1, 1979. An election under the preceding sentence shall be made at such time and in such manner as the Secretary of the Treasury or his delegate shall prescribe. Such an election, once made, shall be irrevocable.

"(3) VOTING RIGHT PROVISIONS.—Section 409A(e) of the Internal Revenue Code of 1954 (as added by subsection (a)) shall apply to plans to which section 409A of such Code applies, beginning with the first day of such application. 26 USC 409A.

"(4) RIGHT TO DEMAND EMPLOYER SECURITIES, ETC.—Paragraphs (1)(A) and (2) of section 409A(h) of the Internal Revenue Code of 1954 (as added by subsection (a)) shall apply to distributions after December 31, 1978, made by a plan to which section 409A of such Code applies.

"(5) SUBSECTION (f)(7).—The amendment made by subsection (f)(7) shall apply to years beginning after December 31, 1978. 26 USC 415 note.

"(6) RETROACTIVE APPLICATION OF AMENDMENT MADE BY SUBSECTION (d).—In determining the regular tax deduction under section 56(c) of the Internal Revenue Code of 1954 for any taxable year beginning before January 1, 1979, the amount of the credit allowable under section 38 of such Code shall be determined without regard to section 46(a)(2)(B) of such Code (as in effect before the enactment of the Energy Tax Act of 1978). 26 USC 56 note. 26 USC 1 note.

"(h) EFFECTIVE DATES FOR SECTION 4975 EMPLOYEE STOCK OWNERSHIP PLANS.—Paragraphs (5) and (6) of subsection (f) shall apply— 26 USC 4975 note.

"(1) insofar as they make the requirements of subsections (e) and (h)(1)(B) of section 409A of the Internal Revenue Code of 1954

26 USC 4975.

applicable to section 4975 of such Code, to stock acquired after December 31, 1979, and

"(2) insofar as they make paragraphs (1)(A) and (2) of section 409A(h) of such Code applicable to such section 4975, to distributions after December 31, 1978."

(C) DEFINITION OF QUALIFYING EMPLOYER SECURITY FOR EMPLOYEE STOCK OWNERSHIP PLAN.—The first sentence of paragraph (8) of section 4975(e) (defining qualifying employer security) is amended to read as follows:

26 USC 4975.

"The term 'qualifying employer security' means any employer security within the meaning of section 409A(l)."

(D) NONRECOGNITION OF GAIN ON CONTRIBUTION TO TAX CREDIT EMPLOYEE STOCK OWNERSHIP PLAN.—Subsection (m) of section 409A (relating to contributions of stock of controlling corporation) is amended to read as follows:

26 USC 409A.

"(m) NONRECOGNITION OF GAIN OR LOSS ON CONTRIBUTION OF EMPLOYER SECURITIES TO TAX CREDIT EMPLOYEE STOCK OWNERSHIP PLAN.—No gain or loss shall be recognized to the taxpayer with respect to the transfer of employer securities to a tax credit employee stock ownership plan maintained by the taxpayer to the extent that such transfer is required under subparagraph (A) or (B) of section 48(n)(1)."

(E) SECTION 4975 EMPLOYEE STOCK OWNERSHIP PLANS MAY DISTRIBUTE CASH IN CERTAIN CASES.—Paragraph (2) of section 409A(h) (relating to allowing plan to distribute cash in certain cases) is amended by inserting "or of section 4975(e)(7)" after "the requirements of this section".

(F) MATCHED EMPLOYER AND EMPLOYEE CONTRIBUTIONS MUST STAY IN PLAN.—Subsection (d) of section 409A (relating to employer securities must stay in plan) is amended by inserting "(or allocated to a participant's account in connection with matched employer and employee contributions)" after "under subsection (b)".

(G) LIMITATION ON REQUIRED TRANSFERS FOR MATCHING EMPLOYEES PLAN PERCENTAGE.—Clause (i) of section 48(n)(1)(B) (relating to matching percentage) is amended to read as follows:

26 USC 48.

"(i) to make transfers of employer securities to a tax credit employee stock ownership plan maintained by the employer having an aggregate value equal to the lesser of—

"(I) the sum of the qualified matching employee contributions made to such plan for the taxable year, or

"(II) one-half of 1 percent of the amount of the qualified investment (as determined under subsections (c) and (d) of section 46) for the taxable year, and".

(H) TIME FOR MAKING TRANSFERS ATTRIBUTABLE TO QUALIFIED MATCHING EMPLOYEE CONTRIBUTIONS.—The last sentence of section 48(n)(1)(C) (relating to times for making transfers) is amended by inserting before the period at the end thereof the following: "(including where such excess is attributable to qualified matching employee contributions made after the close of the taxable year)".

(I) DATE FOR ESTABLISHING PLAN.—

(i) Paragraph (1) of section 409A(f) (relating to plan must be established before employer's due date) is amended to read as follows: 26 USC 409A.

"(1) IN GENERAL.—A plan meets the requirements of this subsection only if it is established on or before the due date (including any extension of such date) for the filing of the employer's tax return for the first taxable year of the employer for which an employee plan credit is claimed by the employer with respect to the plan."

(ii) Paragraph (2) of section 409A(f) is amended by inserting before the period at the end thereof the following: "with respect to the plan".

(J) DEFINITION OF EMPLOYER SECURITIES.—

(i) Subparagraph (B) of section 409A(l)(2) (relating to special rule where there is no readily tradable common stock) is amended by striking out "class of stock" and inserting in lieu thereof "class of common stock".

(ii) Paragraph (3) of section 409A(l) is amended to read as follows:

"(3) PREFERRED STOCK MAY BE ISSUED IN CERTAIN CASES.—Noncallable preferred stock shall be treated as employer securities if such stock is convertible at any time into stock which meets the requirements of paragraph (1) or (2) (whichever is applicable) and if such conversion is at a conversion price which (as of the date of the acquisition by the ESOP) is reasonable. For purposes of the preceding sentence, under regulations prescribed by the Secretary, preferred stock shall be treated as noncallable if after the call there will be a reasonable opportunity for a conversion which meets the requirements of the preceding sentence."

(K) VOTING RIGHTS REQUIREMENTS.—Paragraph (7) of section 4975(e) (defining leveraged employee stock ownership plan) is amended by striking out the last sentence and inserting in lieu thereof the following: 26 USC 4975.

"A plan shall not be treated as an employee stock ownership plan unless it meets the requirements of section 409A(h) and, if the employer has a registration-type class of securities (as defined in section 409A(e)(4)), it meets the requirements of section 409A(e)."

(L) NAME CHANGES.—

(i) The following provisions are each amended by striking out "an ESOP" each place it appears (other than in any heading) and inserting in lieu thereof "a tax credit employee stock ownership plan":

(I) Section 48(n)(1)(A)(i). 26 USC 48.

(II) Section 48(n)(2).

(III) Section 48(n)(2)(A).

(IV) Section 48(n)(5).

(V) Section 401(a)(21). 26 USC 401.

(VI) Section 409A(m). 26 USC 409A.

(VII) Section 415(c)(6)(B)(i). 26 USC 415.

(VIII) The last sentence of section 1504(a). 26 USC 1504.

(ii) The following provisions are each amended by striking out "ESOP" each place it appears and inserting in lieu thereof "tax credit employee stock ownership plan":

(I) Section 409A(a) (other than in the subsection heading).

(II) Section 409A(l)(3).

26 USC 48.

(III) Section 48(n)(1)(B)(i) (as amended by clause (i)).

(IV) Section 48(n)(2).

(V) Section 48(n)(3).

(VI) Section 48(n)(4)(A).

(iii) The following provisions are each amended by striking out "ESOP" each place it appears (other than in any heading) and inserting in lieu thereof "employee plan":

26 USC 46.

(I) Section 46(a)(2).

(II) Section 48(n) (as amended by clauses (i) and (ii)).

(III) Section 48(o).

26 USC 56.

(IV) Section 56(c).

26 USC 409A.

(V) Section 409A (as amended by subparagraph (I) and clauses (i) and (ii)).

26 USC 6699.

(VI) Section 6699.

(iv) The following provisions are each amended by striking out "leveraged employee" each place it appears and inserting in lieu thereof "employee":

26 USC 415.

(I) Section 415(c)(6)(B)(i).

26 USC 1504.

(II) The last sentence of section 1504(a).

Ante, p. 199.

(III) Section 4975(e)(7) (other than in the paragraph heading).

26 USC 46.

(v)(I) The heading of subparagraph (E) of section 46(a)(2) is amended by striking out "ESOP" and inserting in lieu thereof "EMPLOYEE PLAN".

(II) The subsection heading for section 48(n) is amended by striking out "ESOP" and inserting in lieu thereof "EMPLOYEE PLAN".

(III) The subparagraph headings for subparagraphs (A) and (B) of section 48(n)(1) are each amended by striking out "ESOP" and inserting in lieu thereof "EMPLOYEE PLAN".

(IV) The paragraph headings for paragraph (4) of section 48(n) and paragraphs (4), (5), (6), and (7) of section 48(o) are each amended by striking out "ESOP" and inserting in lieu thereof "EMPLOYEE PLAN".

(V) The paragraph heading for section 48(o)(3) is amended by striking out "ESOP" and inserting in lieu thereof "EMPLOYEE PLAN".

(VI) The subsection heading for subsection (a) of section 409A is amended by striking out "ESOP" and inserting in lieu thereof "TAX CREDIT EMPLOYEE STOCK OWNERSHIP PLAN".

26 USC 409A.

(VII) The section heading for section 409A is amended by striking out "ESOPS" and inserting in lieu thereof "TAX CREDIT EMPLOYEE STOCK OWNERSHIP PLANS".

(VIII) The table of sections for subpart A of part I of subchapter D of chapter 1 is amended by striking out "ESOPS" in the item relating to section 409A and inserting in lieu thereof "tax credit employee stock ownership plans".

26 USC 6699.

(IX) The section heading of section 6699 is amended by striking out "ESOP" and inserting in lieu thereof "TAX CREDIT EMPLOYEE STOCK OWNERSHIP PLAN".

(X) The table of sections for subchapter B of chapter 68 is amended by striking out "ESOP" in the item relating to section 6699 and inserting in lieu thereof "tax credit employee stock ownership plan". 26 USC 6699.

(XI) The paragraph heading for paragraph (7) of section 4975(e) is amended by striking out "LEVERAGED EMPLOYEE" and inserting in lieu thereof "EMPLOYEE". 26 USC 4975.

(M) CLERICAL AMENDMENTS.—

(i) Subparagraph (E) of section 46(a)(2) is amended by inserting "and ending on" before "December 31, 1983" each place it appears. 26 USC 46.

(ii) Subparagraph (B) of section 48(n)(2) is amended by adding "and" at the end of clause (i), by striking out clause (ii), and by redesignating clause (iii) as clause (ii). 26 USC 48.

(iii) Paragraph (5) of section 48(o) (as amended by subparagraph (L)) is amended by inserting "percentage" after "attributable to the matching employee plan".

(8) AMENDMENTS RELATED TO SECTION 142 OF THE ACT.— 92 Stat. 2796.

(A) Subsection (c) of section 691 (relating to deduction for estate tax) is amended by adding at the end thereof the following new paragraph: 26 USC 691.

"(5) COORDINATION WITH SECTION 402(E).—For purposes of section 402(e) (other than paragraph (1)(D) thereof), the total taxable amount of any lump sum distribution shall be reduced by the amount of the deduction allowable under paragraph (1) of this subsection which is attributable to the total taxable amount (determined without regard to this paragraph)." 26 USC 402.

(B) Paragraph (2) of section 2039(f) (relating to lump sum distributions) is amended by striking out "without the application of paragraph (2) thereof" and inserting in lieu thereof "(without the application of paragraph (2) thereof), except to the extent that section 402(e)(4)(J) applies to such distribution". 26 USC 2039.

(9) AMENDMENT RELATED TO SECTION 143 OF THE ACT.—Subparagraph (B) of section 401(a)(22) is amended by striking "as securities" and inserting in lieu thereof "are securities". 92 Stat. 2796. 26 USC 401.

(10) AMENDMENTS RELATED TO SECTION 152 OF THE ACT.— 92 Stat. 2797.

(A) CERTAIN EMPLOYEES MAY BE EXCLUDED.—Paragraph (2) of section 408(k) (relating to participation requirements for simplified employee pensions) is amended by adding at the end thereof the following new sentence: 26 USC 408.

"For purposes of this paragraph, there shall be excluded from consideration employees described in subparagraph (A) or (C) of section 410(b)(2)."

(B) CONTRIBUTIONS UNDER SIMPLIFIED EMPLOYEE PENSION NOT SUBJECT TO FICA OR FUTA TAXES.—

(i) FICA TAX.—Paragraph (5) of section 3121(a) (defining wages) is amended by striking out "or" at the end of subparagraph (B), by striking out the semicolon at the end of subparagraph (C) and inserting in lieu thereof ", or", and by adding at the end thereof the following new subparagraph: 26 USC 3121.

"(D) under a simplified employee pension if, at the time of the payment, it is reasonable to believe that the employee will be entitled to a deduction under section 219 for such payment;".

(ii) FUTA TAX.—Paragraph (5) of section 3306(b) (defining wages) is amended by striking out "or" at the end 26 USC 3306.

of subparagraph (B), by striking out the semicolon at the end of subparagraph (C) and inserting in lieu thereof ", or", and by adding at the end thereof the following new subparagraph:

"(D) under a simplified employee pension if, at the time of the payment, it is reasonable to believe that the employee will be entitled to a deduction under section 219 for such payment;".

26 USC 219.

(C) CORRECTION OF CERTAIN EXCESS CONTRIBUTIONS.—Subparagraph (A) of section 408(d)(5) (relating to certain distributions of excess contributions after due date for taxable year) is amended by adding at the end thereof the following new sentence:

26 USC 408.

"If employer contributions on behalf of the individual are paid for the taxable year to a simplified employee pension, the dollar limitation of the preceding sentence shall be increased by the lesser of the amount of such contributions or $7,500."

(D) CLARIFICATION OF SECTION 219(b)(7).—Paragraph (7) of section 219(b) (relating to simplified employee pensions) is amended to read as follows:

26 USC 219.

"(7) SPECIAL RULES IN CASE OF SIMPLIFIED EMPLOYEE PENSIONS.—

"(A) LIMITATION.—If there is an employer contribution on behalf of the employee to a simplified employee pension, the limitation under paragraph (1) shall be the lesser of—

"(i) 15 percent of the compensation includible in the employee's gross income for the taxable year (determined without regard to the employer contribution to the simplified employee pension), or

"(ii) the sum of—

"(I) the amount contributed by the employer to the simplified employee pension and included in gross income (but not in excess of $7,500), and

"(II) $1,500, reduced (but not below zero) by the amount described in subclause (I).

"(B) CERTAIN LIMITATIONS DO NOT APPLY TO EMPLOYER CONTRIBUTION.—Paragraphs (2) and (3) shall not apply with respect to the employer contribution to a simplified employee pension.

"(C) SPECIAL RULE FOR APPLYING SUBPARAGRAPH (A)(ii).—In the case of an employee who is an officer, shareholder, or owner-employee described in section 408(k)(3), the $7,500 amount specified in subparagraph (A)(ii)(I) shall be reduced by the amount of tax taken into account with respect to such individual under subparagraph (D) of section 408(k)(3)."

(E) COORDINATION WITH PLAN FOR SHAREHOLDER-EMPLOYEES.—Paragraph (4) of section 404(h) (relating to effect on self-employed individuals) is amended—

26 USC 404.

(i) by inserting "or described in section 1379(b)(1)" after "of subsection (e)",

(ii) by inserting "or a shareholder-employee (as defined in section 1379(d))" after "section 401(c)(1)", and

(iii) by striking out "SELF-EMPLOYED INDIVIDUALS" in the paragraph heading and inserting in lieu thereof "SELF-EMPLOYED INDIVIDUALS OR SHAREHOLDER-EMPLOYEES".

(F) COORDINATION WITH SECTION 401(j).—Subsection (k) of section 408 (defining simplified employee pension) is amended— 26 USC 401. 26 USC 408.

(i) by striking out "and (5)" in paragraph (1) and inserting in lieu thereof "(5), and (6)",

(ii) by redesignating paragraph (6) as paragraph (7), and

(iii) by inserting after paragraph (5) the following new paragraph:

"(6) EMPLOYER MAY NOT MAINTAIN PLAN TO WHICH SECTION 401(j) APPLIES.—The requirements of this paragraph are met with respect to a simplified employee pension for a calendar year unless the employer maintains during any part of such year a plan—

"(A) some or all of the active participants in which are employees (within the meaning of section 401(c)(1)) or shareholder-employees (as defined in section 1379(d)), and

"(B) to which section 401(j) applies."

(G) EMPLOYER MAY NOT MAINTAIN INTEGRATED PLAN.—

(i) The second sentence of section 408(k)(3)(D) (relating to treatment of certain contributions and taxes) is amended by striking out "Taxes paid" and inserting in lieu thereof "If the employer does not maintain an integrated plan at any time during the taxable year, taxes paid".

(ii) Paragraph (3) of section 408(k) is amended by adding at the end thereof the following new subparagraph:

"(E) INTEGRATED PLAN DEFINED.—For purposes of subparagraph (D), the term 'integrated plan' means a plan which meets the requirements of section 401(a), 403(a), or 405(a) but would not meet such requirements if contributions or benefits under chapter 2 (relating to tax on self-employment income), chapter 21 (relating to Federal Insurance Contributions Act), title II of the Social Security Act, or any other Federal or State law were not taken into account." 26 USC 1401. 26 USC 3101. 42 USC 401.

(H) PENALTY FOR FAILURE TO FILE REPORTS.—Subsection (a) of section 6693 (relating to failure to provide reports on individual retirement accounts or annuities) is amended— 26 USC 6693.

(i) by striking out "section 408(i)" the first place it appears and inserting in lieu thereof "subsection (i) or (l) of section 408", and

(ii) by striking out "section 408(i)" the second place it appears and inserting in lieu thereof "such subsection".

(I) APPLICATION WITH SECTION 415.—Paragraph (5) of section 415(e) is amended— 26 USC 415.

(i) by striking out "any simplified employee pension" in the first sentence, and

(ii) by inserting after the first sentence the following new sentence: "For purposes of this section, any contribution by an employer to a simplified employee pension for an individual for a taxable year shall be treated as an employer contribution to a defined contribution plan for such individual for such year."

(J) CLERICAL AMENDMENTS.—

(i) Subsection (j) of section 408 is amended by inserting "and" at the end of paragraph (1), by striking out ", and" 26 USC 408.

at the end of paragraph (2) and inserting in lieu thereof a period, and by striking out paragraph (3).

26 USC 404.

(ii) Paragraphs (2), (3), and (4) of section 404(h) are each amended by striking out "subparagraph (1)" each place it appears and inserting in lieu thereof "paragraph (1)".

92 Stat. 2797.
26 USC 415.

(iii) Paragraph (2) of section 152(g) of the Revenue Act of 1978 is amended by striking out "section 415(b)(2)" and inserting in lieu thereof "section 415(a)(2)".

92 Stat. 2800.

(11) AMENDMENTS RELATED TO SECTION 153 OF THE ACT.—

(A) WAIVER OF SECTION 415(b)(1)(B) LIMITATION DOES NOT APPLY WHERE PARTICIPANT IS ALSO A PARTICIPANT OF ANOTHER QUALIFIED PLAN.—

26 USC 415.

Paragraph (7) of section 415(b) (relating to benefits under certain collectively bargained plans) is amended by inserting after the second sentence the following new sentence: "This paragraph shall not apply to a participant for any period for which he is a participant under another plan to which this section applies which is maintained by an employer maintaining this plan."

(B) FORMULA FOR DETERMINING BENEFITS IN THE CASE OF SECTION 415(b)(7) PLANS.—Subparagraph (C) of section 415(b)(7) is amended to read as follows:

"(C) under which benefits are determined solely by reference to length of service, the particular years during which service was rendered, age at retirement, and date of retirement,".

92 Stat. 2801.
26 USC 403.

(12) AMENDMENT RELATED TO SECTION 154 OF THE ACT.—Subparagraph (A) of section 403(b)(7) is amended by striking out "which satisfied" and inserting in lieu thereof "which satisfies".

92 Stat. 2801.

(13) AMENDMENT RELATED TO SECTION 156 OF THE ACT.—

26 USC 403 note.

(A) EFFECTIVE DATE.—Subsection (d) of section 156 of the Revenue Act of 1978 (relating to effective date for provision allowing rollover of section 403(b) annuities) is amended by striking out "December 31, 1978" and inserting in lieu thereof "December 31, 1977".

26 USC 403 note.

(B) TRANSITIONAL RULE FOR MAKING SECTION 403(b)(8) ROLLOVER IN THE CASE OF PAYMENTS DURING 1978.—In the case of any payment made during 1978 in a qualifying distribution described in section 403(b)(8) of the Internal Revenue Code of 1954, the applicable period specified in section 402(a)(5)(C) of such Code shall not expire before the close of December 31, 1980.

26 USC 403, 4973.

(C) CLERICAL AMENDMENTS.—Sections 403(b)(1) and 4973(c)(1) are each amended by striking out "409(d)(3)(C)", and inserting in lieu thereof "409(b)(3)(C)".

92 Stat. 2803.
26 USC 402 note.

(14) AMENDMENTS RELATED TO SECTION 157 OF THE ACT.—

(A) EFFECTIVE DATE FOR REMOVAL OF CERTAIN REQUIREMENTS.—Paragraph (3) of section 157(h) of the Revenue Act of 1978 is amended by striking out "the amendments made by this section" each place it appears and inserting in lieu thereof "the amendments made by this subsection".

26 USC 219, 220, 408, 409, 4973, 402.

(B) CONFORMING AMENDMENTS FOR SPOUSAL ROLLOVERS.—Sections 219(b)(4), 220(b)(5), 408(a)(1), 409(a)(4), and 4973(b)(1)(A) are each amended by inserting "402(a)(7)," after "section 402(a)(5),".

26 USC 402.

(C) SPOUSAL ROLLOVERS.—Clause (i) of section 402(a)(7)(A) is amended to read as follows:

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"(i) any portion of a qualifying rollover distribution attributable to an employee is paid to the spouse of the employee after the employee's death,".

(D) EXTENSION OF TRANSITIONAL RULE.—Subparagraph (B) of section 157(h)(3) of the Revenue Act of 1978 (relating to transitional rule for removal of certain requirements) is amended— 92 Stat. 2803. 26 USC 402 note.

(i) by striking out "any payment" and inserting in lieu thereof "any payment made during 1978", and

(ii) by striking out "December 31, 1978" and inserting in lieu thereof "December 31, 1980".

(E) CLERICAL AMENDMENTS.—

(i) Clause (iii) of section 402(a)(6)(D) (relating to sales of distributed property) is amended by striking out "many designate" and inserting in lieu thereof "may designate". 26 USC 402.

(ii) Subparagraph (B) of section 408(d)(5) is amended by striking out all that follows clause (i) and inserting in lieu thereof the following: 26 USC 408.

"(ii) the information was erroneous,

subparagraph (A) shall be applied by increasing the dollar limit set forth therein by that portion of the excess contribution which was attributable to such information."

(iii) Paragraph (20) of section 401(a)(1) is amended by striking out "makes a payment or distribution described in section 402(a)(5)(i) or 403(a)(4)(i)" and inserting in lieu thereof "makes a qualifying rollover distribution (determined as if section 402(a)(5)(D)(i) did not contain subclause (II) thereof) described in section 402(a)(5)(A)(i) or 403(a)(4)(A)(i)". 26 USC 401.

(b) EFFECTIVE DATES.—

(1) SPECIAL EFFECTIVE DATES.—

(A) SUBSECTION (a)(1).—The amendment made by subsection (a)(1) shall apply to taxable years beginning after December 31, 1977. 26 USC 43 note.

(B) SUBSECTION (a)(2).—The amendments made by subparagraphs (A) and (B) of subsection (a)(2) shall apply to payments for months beginning after December 31, 1979. 26 USC 602 note.

(C) DEFINITION OF QUALIFYING EMPLOYER SECURITIES.—The amendment made by subparagraph (C) of subsection (a)(6) shall apply to stock acquired after December 31, 1979. 26 USC 4975 note.

(D) COORDINATION WITH SECTION 691.—The amendment made by subsection (a)(7) shall apply with respect to the estates of decedents dying after the date of the enactment of this Act. 26 USC 691 note.

(E) CONTRIBUTIONS UNDER SIMPLIFIED EMPLOYEE PENSION.—The amendments made by subparagraph (B) of subsection (a)(10) shall apply to payments made on or after January 1, 1979. 26 USC 3121 note.

(F) PENALTY FOR FAILURE TO FURNISH REPORTS.—The amendment made by subparagraph (I) of subsection (a)(10) shall apply with respect to failures occuring after the date of the enactment of this Act. 26 USC 6693 note.

(G) COORDINATION WITH SECTION 415.—The amendment made by subparagraph (I) of subsection (a)(10) shall apply to taxable years beginning after the date of the enactment of this Act. 26 USC 415 note.

(2) GENERAL EFFECTIVE DATE.—

For general effective date, see section 201.

SEC. 102. AMENDMENTS RELATED TO TITLE II.

(a) GENERAL RULE.—

(1) AMENDMENTS RELATED TO SUBTITLE A OF TITLE II OF THE ACT.— 92 Stat. 2814.

(A) STOCK OWNERSHIP RULES.—Subsection (a) of section 465 (relating to deductions limited to amount at risk) is amended— 26 USC 465.

(i) by striking out "(determined by reference to the rules contained in section 318 rather than under section 544)" in paragraph (1)(C), and

(ii) by adding at the end thereof the following new paragraph:

"(3) SPECIAL RULES FOR APPLYING PARAGRAPH (1)(C).—For purposes of paragraph (1)(C)— 26 USC 544.

"(A) section 544(a)(2) shall be applied as if such section did not contain the phrase 'or by or for his partner'; and

"(B) sections 544(a)(4)(A) and 544(b)(1) shall be applied by substituting 'the corporation meet the stock ownership requirements of section 542(a)(2)' for 'the corporation a personal holding company'."

(B) CLARIFICATION OF RULES FOR RECAPTURE OF LOSSES WHERE AMOUNT AT RISK IS LESS THAN ZERO.—Subsection (d) of section 465 (defining loss) is amended by inserting before the period at the end thereof the following: "(determined without regard to subsection (e)(1)(A))".

(C) CLARIFICATION OF LIMITATION ON RECAPTURE OF LOSSES.—Subparagraph (A) of section 465(e)(2) (relating to limitation on recapture of losses where amount at risk is less than zero) is amended by inserting "by reason of losses" after "with respect to the activity".

(D) EXCLUSION FOR CERTAIN EQUIPMENT LEASING BY CLOSELY-HELD CORPORATIONS.—

(i) Subsection (c) of section 465 (relating to deductions limited to amount at risk) is amended by adding at the end thereof the following new paragraphs:

"(4) EXCLUSION FOR CERTAIN EQUIPMENT LEASING BY CLOSELY-HELD CORPORATIONS.—

"(A) IN GENERAL.—In the case of a corporation described in subsection (a)(1)(C) actively engaged in equipment leasing—

"(i) the activity of equipment leasing shall be treated as a separate activity, and

"(ii) subsection (a) shall not apply to losses from such activity.

"(B) 50-PERCENT GROSS RECEIPTS TEST.—For purposes of subparagraph (A), a corporation shall not be considered to be actively engaged in equipment leasing unless 50 percent or more of the gross receipts of the corporation for the taxable year is attributable, under regulations prescribed by the Secretary, to equipment leasing.

"(C) COMPONENT MEMBERS OF CONTROLLED GROUP TREATED AS A SINGLE CORPORATION.—For purposes of subparagraph (A), the component members of a controlled group of corporations shall be treated as a single corporation.

"(5) WAIVER OF CONTROLLED GROUP RULE WHERE THERE IS SUBSTANTIAL LEASING ACTIVITY.—

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"(A) IN GENERAL.—In the case of the component members of a qualified leasing group, paragraph (4) shall be applied—

"(i) by substituting '80 percent' for '50 percent' in subparagraph (B) thereof, and

"(ii) as if paragraph (4) did not include subparagraph (C) thereof.

"(B) QUALIFIED LEASING GROUP.—For purposes of this paragraph, the term 'qualified leasing group' means a controlled group of corporations which, for the taxable year and each of the 2 immediately preceding taxable years, satisfied each of the following 3 requirements:

"(i) AT LEAST 3 EMPLOYEES.—During the entire year, the group had at least 3 full-time employees substantially all of the services of whom were services directly related to the equipment leasing activity of the qualified leasing members.

"(ii) AT LEAST 5 SEPARATE LEASING TRANSACTIONS.—During the year, the qualified leasing members in the aggregate entered into at least 5 separate equipment leasing transactions.

"(iii) AT LEAST $1,000,000 EQUIPMENT LEASING RECEIPTS.—During the year, the qualified leasing members in the aggregate had at least $1,000,000 in gross receipts from equipment leasing.

The term 'qualified leasing group' does not include any controlled group of corporations to which, without regard to this paragraph, paragraph (4) applies.

"(C) QUALIFIED LEASING MEMBER.—For purposes of this paragraph, a corporation shall be treated as a qualified leasing member for the taxable year only if for each of the taxable years referred to in subparagraph (B)—

"(i) it is a component member of the controlled group of corporations, and

"(ii) it meets the requirements of paragraph (4)(B) (as modified by subparagraph (A)(i) of this paragraph).

"(6) DEFINITIONS RELATING TO PARAGRAPHS (4) AND (5).—For purposes of paragraphs (4) and (5)—

"(A) EQUIPMENT LEASING.—The term 'equipment leasing' means—

"(i) the leasing of equipment which is section 1245 property, and 26 USC 1245.

"(ii) the purchasing, servicing, and selling of such equipment.

"(B) LEASING OF MASTER SOUND RECORDINGS, ETC., EXCLUDED.—The term 'equipment leasing' does not include the leasing of master sound recordings, and other similar contractual arrangements with respect to tangible or intangible assets associated with literary, artistic, or musical properties.

"(C) CONTROLLED GROUP OF CORPORATIONS; COMPONENT MEMBER.—The terms 'controlled group of corporations' and 'component member' have the same meanings as when used in section 1563. The determination of the taxable years taken into account with respect to any controlled group of corporations shall be made in a manner consistent with the manner set forth in section 1563."

(ii) Subparagraph (D) of section 465(c)(3) is amended to read as follows: 26 USC 465.

"(D) EXCLUSION FOR REAL PROPERTY.—In the case of activities described in subparagraph (A), the holding of real property (other than mineral property) shall be treated as a separate activity, and subsection (a) shall not apply to losses from such activity. For purposes of the preceding sentence, personal property and services which are incidental to making real property available as living accommodations shall be treated as part of the activity of holding such real property."

26 USC 465.

(iii) Paragraph (5) of section 465(b) is amended by striking out "to which this section applies" and inserting in lieu thereof "to which subsection (a) applies".

26 USC 465 note.

(E) CLERICAL AMENDMENT TO EFFECTIVE DATE.—Subparagraph (A) of section 204(b)(2) of the Revenue Act of 1978 (relating to special transitional rules for leasing activities) is amended by striking out "this section" and inserting in lieu thereof "this subtitle".

92 Stat. 2817.

(2) AMENDMENTS RELATED TO SUBTITLE B OF TITLE II OF THE ACT.—

26 USC 6501.

(A) AMENDMENT OF SECTION 6501.—Section 6501 (relating to limitations on assessment and collection) is amended by redesignating the subsection added by section 212(a) of the Revenue Act of 1978 as subsection (o).

26 USC 6511.

(B) AMENDMENT OF SECTION 6511(g)(2).—Paragraph (2) of section 6511(g) (relating to special rule for partnership items of federally registered partnerships) is amended by striking out "6501(q)" and inserting in lieu thereof "6501(o)".

26 USC 761.

(C) AMENDMENT OF SECTION 761.—Subsection (a) of section 761 (defining partnership) is amended by striking out "or" at the end of paragraph (1), by inserting "or" at the end of paragraph (2), and by inserting after paragraph (2) the following new paragraph:

"(3) by dealers in securities for a short period for the purpose of underwriting, selling, or distributing a particular issue of securities,".

(b) EFFECTIVE DATE.—

For general effective date, see section 201.

92 Stat. 2820.

SEC. 103. AMENDMENTS RELATED TO TITLE III.

(a) GENERAL RULE.—

26 USC 857.

(1) AMENDMENT RELATED TO SECTION 301 OF THE ACT.—Subparagraph (A) of section 857(b)(4) (relating to imposition of tax on income from foreclosure property) is amended to read as follows:

"(A) IMPOSITION OF TAX.—A tax is hereby imposed for each taxable year on the net income from foreclosure property of every real estate investment trust. Such tax shall be computed by multiplying the net income from foreclosure property by the highest rate of tax specified in section 11(b)."

92 Stat. 2824.

(2) AMENDMENTS RELATED TO SECTION 312 OF THE ACT.—

(A) CLARIFICATION OF FLOW-THROUGH PROVISIONS.—Paragraph (2) of section 312(c) of the Revenue Act of 1978 (relating to repeal of certain obsolete provisions) is amended to read as follows:

26 USC 46.
26 USC 48.

"(2) Paragraphs (1) and (2) of section 46(f) and subparagraph (B) of section 48(a)(7) are each amended by striking out 'described in section 50' and inserting in lieu thereof 'described in section 50 (as in effect before its repeal by the Revenue Act of 1978)'."

26 USC 1 note.

(B) CLERICAL AMENDMENTS TO SPECIAL RULES FOR ENERGY PROPERTY.—

(i) Subsection (a) of section 46 (relating to amount of investment credit) is amended by redesignating paragraph (10) as paragraph (9). 26 USC 46.

(ii) Clause (i) of section 46(a)(9)(B) (as redesignated by clause (i)) is amended to read as follows:

"(i) paragraph (3)(B) shall be applied by substituting '100 percent' for the percentage determined under the table contained in such paragraph,".

(iii) Clause (ii) of section 46(a)(9)(B) (as so redesignated) is amended by striking out "(7), (8), and (9)" and inserting in lieu thereof "(7) and (8)".

(iv) Subsection (d) of section 6401 is amended by striking out "46(a)(10)(C)" and inserting in lieu thereof "46(a)(9)(C)". 26 USC 6401.

(3) AMENDMENT RELATED TO SECTION 313 OF THE ACT.—Subparagraph (B) of section 46(c)(5) (relating to applicable percentage in the case of certain pollution control facilities) is amended by adding at the end thereof the following new sentence: "This subparagraph shall not apply for purposes of applying the energy percentage." 92 Stat. 2826. 26 USC 46.

(4) AMENDMENTS RELATED TO SECTION 315 OF THE ACT.— 92 Stat. 2828.

(A) CREDIT ALLOWED TO NONCORPORATE LESSORS.—Paragraph (3) of section 46(e) (relating to special rule for noncorporate lessors) is amended by adding at the end thereof the following new sentence: "This paragraph shall not apply with respect to any property which is treated as section 38 property by reason of section 48(a)(1)(E)." 26 USC 46.

(B) COORDINATION WITH ENERGY PROPERTY.—Clause (i) of section 48(g)(2)(B) is amended by striking out "subsection (a)(1)(E)" and inserting in lieu thereof "subsections (a)(1)(E) and (l))". 26 USC 48.

(5) AMENDMENT RELATED TO SECTION 316 OF THE ACT.—Sections 50B(f) and 52(f) (and the predecessor of section 52(f), section 52(h)) are each amended by striking out "section 46(e)" and inserting in lieu thereof "subsections (e) and (h) of section 46". 92 Stat. 2829. 26 USC 50B, 52.

(6) AMENDMENTS RELATED TO SECTION 321 OF THE ACT.— 92 Stat. 2830.

(A) EXTENSION OF TERMINATION DATE.—Paragraph (4) of section 51(c) (relating to termination) is amended by striking out "December 31, 1980" and inserting in lieu thereof "December 31, 1981". 26 USC 51.

(B) EFFECTIVE DATE FOR PROVISION MAKING NEW JOBS CREDIT ELECTIVE.—Subsection (d) of section 321 of the Revenue Act of 1978 (relating to effective dates) is amended by adding at the end thereof the following new paragraph: 92 Stat. 2830.

"(5) SUBSECTION (b).—The amendments made by subsection (b) shall apply to taxable years beginning after December 31, 1976." 26 USC 44B note.

(C) CLARIFICATION OF EFFECTIVE DATE.—Subparagraph (A) of section 321(d)(2) of the Revenue Act of 1978 (relating to special rules for newly targeted groups) is amended by inserting ", for purposes of applying the amendments made by this section" after "newly targeted group". 26 USC 51 note.

(D) CLARIFICATION OF TRANSITIONAL RULE.—Paragraph (3) of section 321(d) of the Revenue Act of 1978 (relating to transitional rule) is amended to read as follows: 26 USC 51 note.

"(3) TRANSITIONAL RULE.—In the case of a taxable year which begins in 1978 and ends after December 31, 1978, the amount of

the credit determined under section 51 of the Internal Revenue Code of 1954 shall be the sum of—

26 USC 51.

"(A) the amount of the credit which would be so determined without regard to the amendments made by this section, plus

"(B) the amount of the credit which would be so determined by reason of the amendments made by this section."

(E) FUTA WAGES TO BE TREATED AS INCLUDING REMUNERATION OF YOUTH PARTICIPATING IN A COOPERATIVE EDUCATION PROGRAM.—

26 USC 51.

(i) Subparagraph (D) of section 51(d)(8) (relating to members of targeted groups) is amended to read as follows:

"(D) WAGES.—In the case of remuneration attributable to services performed while the individual meets the requirements of subparagraph (A), wages, and unemployment insurance wages, shall be determined without regard to section 3306(c)(10)(C)."

26 USC 3306.

(ii) Paragraph (1) of section 51(c) (defining wages) is amended by striking out "and subsection (h)(2)," and inserting in lieu thereof ", subsection (d)(8)(D), and subsection (h)(2),".

(F) AGE REQUIREMENT FOR QUALIFIED COOPERATIVE EDUCATION PROGRAMS.—Clause (i) of section 51(d)(8)(A) (defining youth participating in a qualified cooperative education program) is amended by striking out "19" and inserting in lieu thereof "20".

(G) CLERICAL AMENDMENTS.—

26 USC 44B.

(i) Subsection (a) of section 44B is amended by striking out "at the taxpayer" and inserting in lieu thereof "of the taxpayer".

(ii) Paragraph (2) of section 44B(c) is amended by striking out "may be" and inserting in lieu thereof "may by".

26 USC 51.

(iii) Paragraph (2) of section 51(c) is amended by striking out "amounts paid" and inserting in lieu thereof "amounts paid or incurred".

(iv) Paragraph (1) of section 51(d) is amended by striking out "or" at the end of subparagraph (E).

(v) Clause (i) of section 51(d)(4)(A) is amended by striking out "active day" and inserting in lieu thereof "active duty".

(vi) Subparagraph (B) of section 51(d)(4) is amended by striking out "premployment" and inserting in lieu thereof "preemployment".

(vii) Paragraph (5) of section 51(d) is amended by striking out "pre-employment" and inserting in lieu thereof "preemployment".

(viii) Paragraph (12) of section 51(d) is amended by striking out "employer" and inserting in lieu thereof "employers".

(ix) The last sentence of section 51(e) is amended by inserting "except as provided in subsection (h)(1)," after "the preceding sentence,".

26 USC 6501.

(x) Section 6501 is amended by redesignating the subsection added by section 321(b)(2) of the Revenue Act of 1978 as subsection (p).

92 Stat. 2830.

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(xi) Subparagraph (B) of section 321(d)(2) of the Revenue Act of 1978 is amended by striking out clauses (i) and (ii) and inserting in lieu thereof the following: 26 USC 51 note.

"(i) such individual meets the requirements of paragraph (1) of section 51(d) of such Code, and

"(ii) in the case of an individual meeting the requirements of subparagraph (A) of such paragraph (1), a credit was not claimed for such individual by the taxpayer for a taxable year beginning before January 1, 1979."

(xii) Paragraph (4) of section 321(d) of the Revenue Act of 1978 is amended by striking out "subsection (u)(2)" and inserting in lieu thereof "subsection (c)(2)". 26 USC 53 note.

(xiii) Section 383 and subsection (a) of section 6411 are each amended by striking out "section 53(c)" and inserting in lieu thereof "section 53(b)". 26 USC 383, 6411.

(7) AMENDMENTS RELATED TO SECTION 322 OF THE ACT.— 92 Stat. 2836.

(A) CLARIFICATION OF EFFECTIVE DATE.—Paragraph (1) of section 322(e) of the Revenue Act of 1978 (relating to effective date) is amended by adding at the end thereof the following new sentence: "For purposes of applying section 50A(a)(2) of the Internal Revenue Code of 1954 with respect to a taxable year beginning before January 1, 1979, the rules of sections 50A(a)(4), 50A(a)(5), and 50B(e)(3) of such Code (as in effect on the day before the date of the enactment of this Act) shall apply." 26 USC 50A note.

(B) TRANSITIONAL RULE FOR EMPLOYEES HIRED AFTER SEPTEMBER 26, 1978.—Subparagraph (B) of section 322(e)(2) of the Revenue Act of 1978 (relating to eligible employees hired after September 26, 1978) is amended—

(i) by striking out "September 27, 1978," and inserting in lieu thereof "September 26, 1978, for purposes of applying the amendments made by this section,"; and

(ii) by striking out "January 1, 1979." and inserting in lieu thereof "January 1, 1979, and any wages paid or incurred after December 31, 1978, with respect to such individual shall be considered to be attributable to services rendered after that date."

(C) FEDERAL WELFARE RECIPIENT EMPLOYMENT INCENTIVE EXPENSES.—Effective with respect to wages paid or incurred after September 30, 1978, and before January 1, 1979, subparagraph (B) of section 50B(a)(2) (relating to work incentive program expenses), as in effect before the amendments made by section 322 of the Revenue Act of 1978, is amended by striking out "October 1, 1978" and inserting in lieu thereof "January 1, 1979". 26 USC 50B. 92 Stat. 2836.

(D) CLERICAL AMENDMENTS.—

(i) Subparagraph (C) of section 50A(a)(4) (relating to limitation with respect to nonbusiness eligible employees) is amended by striking out "'$6,000' and" and inserting in lieu thereof "'$6,000' for". 26 USC 50A.

(ii) Subparagraph (B) of section 50B(g)(2) is amended by striking out "giving to such credit" and inserting in lieu thereof "giving rise to such credit". 26 USC 50B.

(iii) Clause (i) of section 50B(h)(1)(A) is amended by striking out "9-day" and inserting in lieu thereof "90-day".

92 Stat. 2836.
26 USC 280C.

(iv) The second subsection designated as subsection (d) of section 322 of the Revenue Act of 1978 is amended by striking out "our" in paragraph (1)(A) thereof and inserting in lieu thereof "out".

92 Stat. 2842.
26 USC 103 note.

(8) AMENDMENT RELATED TO SECTION 337 OF THE ACT.—Subsection (a) of section 337 of the Revenue Act of 1978 (relating to disposition of amounts generated by advance refunding of certain governmental obligations) is amended by striking out "or a refund profit" and inserting in lieu thereof "of a refund profit".

92 Stat. 2844.
26 USC 1244 note.

(9) AMENDMENT RELATING TO SECTION 345 OF THE ACT.—Subsection (e) of section 345 of the Revenue Act of 1978 (relating to effective date for small business corporation stock provision) is amended to read as follows:

"(e) EFFECTIVE DATES.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to stock issued after November 6, 1978.

"(2) SUBSECTION (b).—The amendments made by subsection (b) shall apply to taxable years beginning after December 31, 1978.

"(3) TRANSITIONAL RULE FOR SUBSECTION (b).—In the case of a taxable year which includes November 6, 1978, the amendments made by subsection (b) shall apply with respect to stock issued after such date."

92 Stat. 2847.
26 USC 274.

(10) AMENDMENTS RELATED TO SECTION 361 OF THE ACT.—

(A) OTHER CLUBS.—Subparagraph (C) of section 274(a)(2) (relating to special rule for country clubs) is amended by striking out "country".

(B) CLERICAL AMENDMENT.—Subsection (b) of section 361 of the Revenue Act of 1978 is amended—

(i) by striking out "section 274(2)" and inserting in lieu thereof "section 274(a)", and

(ii) by striking out "COUNTRY" in the subsection heading.

26 USC 274 note.

(C) USE OF FACILITIES IN CASE OF INDEPENDENT CONTRACTORS, ETC.—

(i) IN GENERAL.—Subsection (a) of section 274 of the Internal Revenue Code of 1954 (relating to disallowance of certain entertainment, etc., expenses) shall not apply to expenses paid or incurred by the taxpayer for goods, services, and facilities to the extent that the expenses are includible in the gross income of a recipient of the entertainment, amusement, or recreation who is not an employee of the taxpayer as compensation for services rendered or as a prize or award under section 74 of such Code.

26 USC 74.

(ii) INFORMATION RETURN REQUIREMENT.—Clause (i) shall not apply to any amount paid or incurred by the taxpayer if such amount is required to be included in any information return filed by such taxpayer under part III of subchapter A of chapter 61 of such Code and is not so included.

26 USC 6031.

(iii) APPLICATION OF SUBPARAGRAPH.—This subparagraph shall only apply with respect to expenses paid or incurred during 1979 or 1980.

92 Stat. 2848.
26 USC 860 note.

(11) AMENDMENTS RELATED TO SECTION 362 OF THE ACT.—

(A) Subsection (e) of section 362 of the Revenue Act of 1978 (relating to effective date for deficiency dividend procedure

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for regulated investment companies) is amended by striking out "860(d)" and inserting in lieu thereof "860(e)". 26 USC 860.

(B) The subsection heading of subsection (f) of section 860 is amended by striking out "EFFICIENCY" and inserting in lieu thereof "DEFICIENCY".

(C) Clause (i) of section 860(f)(2)(A) is amended by striking out "computed without regard" and inserting in lieu thereof "(computed without regard". 26 USC 860.

(12) AMENDMENT RELATED TO SECTION 365 OF THE ACT.—Subparagraph (A) of section 357(c)(3) (relating to liabilities in excess of basis) is amended to read as follows: 92 Stat. 2854. 26 USC 357.

"(A) IN GENERAL.—If a taxpayer transfers, in an exchange to which section 351 applies, a liability the payment of which either— 26 USC 351.

"(i) would give rise to a deduction, or

"(ii) would be described in section 736(a),

then, for purposes of paragraph (1), the amount of such liability shall be excluded in determining the amount of liabilities assumed or to which the property transferred is subject."

(13) AMENDMENTS RELATED TO SECTION 366 OF THE ACT.— 92 Stat. 2855.

(A) WITHHOLDING.—Subsection (a) of section 3401 (defining wages) is amended— 26 USC 3401.

(i) by striking out "or" at the end of paragraph (17),

(ii) by striking out the period at the end of the paragraph (18) added by section 207(a) of the Foreign Earned Income Act of 1978 and inserting in lieu thereof a semicolon, 92 Stat. 3108.

(iii) by redesignating the paragraph (18) added by section 164(b)(1) of the Revenue Act of 1978 as paragraph (19), 92 Stat. 2811.

(iv) by striking out "section 124." in paragraph (19) (as so redesignated) and inserting in lieu thereof "section 127; or", and

(v) by adding at the end thereof the following new paragraph:

"(20) for any medical care reimbursement made to or for the benefit of an employee under a self-insured medical reimbursement plan (within the meaning of section 105(h)(6))."

(B) CLARIFICATION OF NONDISCRIMINATORY ELIGIBILITY CLASSIFICATIONS.—Clause (ii) of section 105(h)(3)(A) is amended by striking out "highly compensated participants" and inserting in lieu thereof "highly compensated individuals". 26 USC 105.

(C) CLARIFICATION OF EXCESS REIMBURSEMENT OF HIGHLY COMPENSATED INDIVIDUALS.—Subparagraph (A) of section 105(h)(7) is amended to read as follows:

"(A) in the case of a benefit available to highly compensated individuals but not to all other participants (or which otherwise fails to satisfy the requirements of paragraph (2)(B)), the amount reimbursed under the plan to the employee with respect to such benefit, and".

(D) CLARIFICATION OF EFFECTIVE DATE.—Subsection (b) of section 366 of the Revenue Act of 1978 is amended to read as follows: 26 USC 105 note.

"(b) EFFECTIVE DATE.—The amendment made by this section shall apply to amounts reimbursed after December 31, 1979. For purposes 26 USC 105 note.

of applying such amendment, there shall not be taken into account any amount reimbursed before January 1, 1980."

92 Stat. 2857.

(14) AMENDMENT RELATED TO SECTION 369 OF THE ACT.—Clause (iv) of section 374(e)(1)(A) (relating to use of expired net operating loss carryovers to offset income arising from certain railroad reorganization proceedings) is amended by striking out "March 31, 1967" and inserting in lieu thereof "March 31, 1976".

26 USC 374.

92 Stat. 2859.

(15) AMENDMENT RELATED TO SECTION 371 OF THE ACT.—Paragraph (2) of section 371(a) of the Revenue Act of 1978 (relating to net operating losses attributable to product liability losses) is amended by striking out "Clause (i) of section 172(b)(1)(A)" and inserting in lieu thereof "Subparagraph (A) of section 172(b)(1)".

26 USC 172.

92 Stat. 2863.

(16) AMENDMENT RELATED TO SECTION 373 OF THE ACT.—Subparagraph (B) of section 466(e)(2) (relating to initial opening balance of suspense account) is amended by striking out "first taxable years" and inserting in lieu thereof "first taxable year".

26 USC 466.

(b) EFFECTIVE DATES.—

26 USC 51 note.

(1) SPECIAL EFFECTIVE DATE.—The amendment made by subsection (a)(5)(F) shall apply to wages paid or incurred on or after November 27, 1979, in taxable years ending on or after such date.

(2) GENERAL EFFECTIVE DATE.—

Post, p. 228.

For general effective date, see section 201.

SEC. 104. AMENDMENTS RELATED TO TITLE IV.

(a) IN GENERAL.—

92 Stat. 2866.

(1) AMENDMENT RELATED TO SECTION 401 OF THE ACT.—Subsection (b) of section 877 is amended by striking out "402(e)(1), or section 1201(b)" and inserting in lieu thereof "or 402(e)(1)".

26 USC 877.

92 Stat. 2867.

(2) AMENDMENTS RELATED TO SECTION 402 OF THE ACT.—

26 USC 1202.

(A) AMENDMENTS OF TRANSITIONAL RULE.—Subsection (c) of section 1202 (relating to transitional rule of taxable years which include November 1, 1978) is amended—

(i) by striking out so much of such subsection as precedes "a taxpayer other than a corporation" and inserting in lieu thereof:

"(c) TRANSITIONAL RULE.—If for any taxable year ending after October 31, 1978, and beginning before November 1, 1979,"; and

(ii) by amending subparagraph (B) of paragraph (1) to read as follows:

"(B) the net capital gain taking into account only gain or loss properly taken into account for the portion of the taxable year after October 31, 1978, plus".

(B) COMPUTATION OF MAXIMUM 25 PERCENT ALTERNATIVE CAPITAL GAINS TAX FOR 1978.—

26 USC 1201.

(i) Paragraph (1) of section 1201(b) (as such paragraph was in effect for taxable years beginning before January 1, 1979) is amended by striking out "50 percent of the net capital gain" and inserting in lieu thereof "the excess of the net capital gain over the deduction under section 1202".

(ii) Subsection (c) of section 1201 (as such subsection was in effect for taxable years beginning before January 1, 1979) is amended to read as follows:

"(c) COMPUTATION OF TAX WHERE CAPITAL GAIN EXCEEDS $50,000.—The tax computed for purposes of subsection (b)(3) shall be the amount by which a tax determined under section 1 or 511 on an amount equal to the taxable income (but not less than the excess of the net capital gain over the deduction under section 1202) for the

26 USC 1, 511.

taxable year exceeds a tax determined under section 1 or 511 on an amount equal to the sum of— 26 USC 1, 511.

"(1) the amount subject to tax under subsection (b)(1), plus

"(2) an amount determined by multiplying the sum referred to in subsection (b)(2)(A) by a fraction—

"(A) the numerator of which is the excess of the net capital gain over the deduction under section 1202, and 26 USC 1202.

"(B) the denominator of which is the net capital gain."

(C) SPECIAL RULE FOR PASS-THROUGH ENTITIES.—

(i) IN GENERAL.—In applying sections 1201(c)(2)(A)(ii) and 1202(c)(1)(B) of the Internal Revenue Code of 1954 with respect to any pass-through entity, the determination of the period for which gain or loss is properly taken into account shall be made at the entity level. 26 USC 1201 note. 26 USC 1201, 1202.

(ii) PASS-THROUGH ENTITY DEFINED.—For purposes of clause (i), the term "pass-through entity" means—

(I) a regulated investment company,

(II) a real estate investment trust,

(III) an electing small business corporation,

(IV) a partnership,

(V) an estate or trust, and

(VI) a common trust fund.

(3) AMENDMENTS RELATED TO SECTION 403 OF THE ACT.— 92 Stat. 2868.

(A) CLARIFICATION OF TRANSITIONAL RULE.—Subsection (c) of section 1201 (relating to transitional rule for taxable years which include January 1, 1979) is amended— 26 USC 1201.

(i) by striking out so much of such section as precedes "a corporation" and inserting in lieu thereof the following:

"(c) TRANSITIONAL RULE.—If for any taxable year ending after December 31, 1978, and beginning before January 1, 1980,", and

(ii) by amending clause (ii) of paragraph (2)(A) to read as follows:

"(ii) the net capital gain taking into account only gain or loss properly taken into account for the portion of the taxable year after December 31, 1978, plus".

(B) UNDISTRIBUTED CAPITAL GAIN OF REGULATED INVESTMENT COMPANY.—Clause (iii) of section 852(b)(3)(D) (relating to treatment by shareholders of undistributed capital gain) is amended by striking out "70 percent" and inserting in lieu thereof "72 percent". 26 USC 852.

(C) ADDITION TO RESERVES FOR BAD DEBTS.—Clause (iv) of section 593(b)(2)(E) is amended by striking out "⅜" each place it appears and inserting in lieu thereof "1⅝6". 26 USC 593.

(D) CLERICAL AMENDMENTS.—

(i) Paragraph (3) of section 904(b) is amended by redesignating the subparagraph (E) added by section 403(c)(4) of the Revenue Act of 1978 as subparagraph (F). 26 USC 904.

(ii) Subparagraph (B) of section 403(c)(4) of the Revenue Act of 1978 is amended by striking out "striking the period at the end of subparagraph (D) of paragraph (3), inserting in lieu thereof a comma, and inserting immediately thereafter" and inserting in lieu thereof "adding at the end of paragraph (3)".

(4) AMENDMENTS RELATED TO SECTION 421 OF THE ACT.— 92 Stat. 2871.

(A) CERTAIN DEDUCTIONS WHICH MAY BE CARRIED OVER NOT TAKEN INTO ACCOUNT.—Paragraph (1) of section 55(b) (defin- 26 USC 55.

ing alternative minimum taxable income) is amended by adding at the end thereof the following new sentence: "For purposes of subparagraph (A), a deduction shall not be taken into account to the extent such deduction may be carried to another taxable year."

26 USC 55.

(B) TREATMENT OF FOREIGN TAX CREDIT.—Paragraphs (1) and (2) of section 55(c) (relating to credits) are amended to read as follows:

"(1) CREDITS OTHER THAN FOREIGN TAX CREDIT NOT ALLOWABLE, ETC.—For purposes of determining the amount of any credit allowable under subpart A of part IV of this subchapter (other than the foreign tax credit allowed under section 33(a))—

26 USC 31.
26 USC 33.

"(A) the tax imposed by this section shall not be treated as a tax imposed by this chapter, and

"(B) the amount of the foreign tax credit allowed under section 33(a) shall be determined without regard to this section.

"(2) FOREIGN TAX CREDIT ALLOWED AGAINST ALTERNATIVE MINIMUM TAX.—

"(A) DETERMINATION OF FOREIGN TAX CREDIT.—The total amount of the foreign tax credit which can be taken against the tax imposed by subsection (a) shall be determined under subpart A of part III of subchapter N (sec. 901 and following).

26 USC 901.

"(B) INCREASE IN AMOUNT OF FOREIGN TAXES TAKEN INTO ACCOUNT.—For purposes of the determination provided by subparagraph (A), the amount of taxes paid or accrued to foreign countries or possessions of the United States during the taxable year shall be increased by an amount equal to the lesser of—

"(i) the foreign tax credit allowable under section 33(a) in computing the regular tax for the taxable year, or

"(ii) the tax imposed by subsection (a).

26 USC 904.

"(C) SECTION 904(a) LIMITATION.—For purposes of the determination provided by subparagraph (A), the limitation of section 904(a) shall be an amount equal to the same proportion of the sum of the tax imposed by subsection (a) against which such credit is taken and the regular tax (excluding the tax imposed by section 56) as—

26 USC 56.

"(i) the taxpayer's alternative minimum taxable income from sources without the United States (but not in excess of the taxpayer's entire alternative minimum taxable income), bears to

"(ii) his entire alternative minimum taxable income.

For such purpose, the amount of the limitation of section 904(a) shall not exceed the tax imposed by subsection (a).

"(D) DEFINITION OF ALTERNATIVE MINIMUM TAXABLE INCOME FROM SOURCES WITHOUT THE UNITED STATES.—For purposes of subparagraph (C), the term 'alternative minimum taxable income from sources without the United States' means the items of gross income from sources without the United States adjusted as provided in subparagraph (A), (B), and (C) of section 55(b)(1) (taking into account in such adjustment only items described in such subparagraphs which are properly attributable to items of gross income from sources without the United States).

26 USC 55.

"(E) SPECIAL RULE FOR APPLYING SECTION 904(c).—In determining the amount of foreign taxes paid or accrued during the taxable year which may be deemed to be paid or accrued

in a preceding or succeeding taxable year under section 904(c)— 26 USC 904.

"(i) the limitation of section 904(a) shall be increased by the amount of the limitation determined under subparagraph (C), and

"(ii) any increase under subparagraph (B) shall be taken into account."

(C) REGULAR TAX DETERMINED WITHOUT REGARD TO FOREIGN TAX CREDIT ALLOWED AGAINST MINIMUM TAX.—Paragraph (2) of section 55(b) is amended by adding at the end thereof the following new sentence: "For purposes of this paragraph, the amount of the credit allowable under section 33 shall be determined without regard to this section." 26 USC 55. 26 USC 33.

(D) TREATMENT OF ZERO BRACKET AMOUNT.—Subsection (b) of section 55 (relating to definitions for purposes of alternative minimum tax) is amended by adding at the end thereof the following new paragraph:

"(3) TREATMENT OF ZERO BRACKET AMOUNT.—In the case of an individual who does not itemize his itemized deductions, the zero bracket amount shall be treated as a deduction allowed."

(E) TREATMENT OF CERTAIN FOREIGN TAXES FOR THE ADJUSTED ITEMIZED DEDUCTION PREFERENCE.—Paragraphs (1)(A) and (2)(A)(v) of section 57(b) (relating to adjusted itemized deductions) are each amended by inserting ", and foreign," after "State and local". 26 USC 57.

(F) ADJUSTED ITEMIZED DEDUCTIONS OF ESTATE OR TRUST.—Subparagraph (A) of section 57(b)(2) (defining adjusted itemized deductions of estate or trust) is amended by striking out "clauses (i) through (vi)" and inserting in lieu thereof "clauses (iii) through (vi)".

(G) CARRYOVER OF RESIDENTIAL ENERGY CREDIT.—Paragraph (3) of section 55(c) is amended by adding at the end thereof the following new sentence: 26 USC 55.

"In determining any carryover under subsection 44C(b)(6), a rule similar to the rule set forth in subparagraph (A) shall be treated as inserted in this paragraph before subparagraph (A), and the applications of subparagraphs (A), (B), and (C) shall be adjusted accordingly." 26 USC 44.

(H) CLERICAL AMENDMENTS.—

(i) Subsection (a) of section 55 (relating to alternative minimum tax) is amended by striking out all after paragraph (1) and inserting in lieu thereof the following:

"(2) the regular tax for the taxable year,

then there is imposed (in addition to all other taxes imposed by this title) a tax equal to the amount of such excess."

(ii) Subparagraph (A) of section 55(c)(3) (relating to carryover and carryback of certain credits) is amended by striking out "section 53(c)" and inserting in lieu thereof "section 53(b)". 26 USC 53.

(iii) Paragraph (2) of section 443(d) (relating to adjustment in computing minimum tax for tax preferences) is amended by striking out "in the case of a corporation,". 26 USC 443.

(iv) Paragraph (3) of section 453(c) is amended by striking out "section 56" and inserting in lieu thereof "sections 55 and 56". 26 USC 453.

(v) Sections 871(b)(1) and 877(b) are each amended by striking out "section 55" and inserting in lieu thereof "55". 26 USC 871, 877.

26 USC 666.

(vi) The second sentence of section 666(c) (relating to pro rata portion of taxes deemed distributed) is amended by inserting "(other than the tax imposed by section 55)" after "equal to the taxes".

26 USC 5.

(vii) Paragraph (4) of section 5(a) is amended by striking out "section 55" and inserting in lieu thereof "sections 55 and 56".

26 USC 55.

(viii) Paragraph (2) of section 55(b) is amended by inserting "409(c)," after "408(f),".

92 Stat. 2878.

(5) AMENDMENTS RELATED TO SECTION 441 OF THE ACT.—

26 USC 1348 note.

(A) TRANSITIONAL RULE.—Paragraph (2) of section 441(b) of the Revenue Act of 1978 (relating to transitional rules) is amended to read as follows:

"(2) TAXABLE YEARS WHICH STRADDLE NOVEMBER 1, 1978.—In the case of a taxable year which begins before November 1, 1978, and ends after October 31, 1978, the amount taken into account under section 1348(b)(2)(B) of the Internal Revenue Code of 1954 by reason of section 57(a)(9) of such Code shall be 50 percent of the lesser of—

26 USC 1348.
26 USC 57.

"(A) the net capital gain for the taxable year, or

"(B) the net capital gain taking into account only gain or loss properly taken into account for the portion of the taxable year before November 1, 1978."

26 USC 1348.

(B) CLERICAL AMENDMENT.—Subsection (a) of section 441 of the Revenue Act of 1978 is amended by striking out "subparagraph (b)" and inserting in lieu thereof "subparagraph (B)".

(b) EFFECTIVE DATES.—

26 USC 1201 note.

(1) SPECIAL EFFECTIVE DATE FOR SUBSECTION (a)(2)(B).—The amendments made by subsection (a)(2)(B) shall apply to taxable years beginning in 1978.

(2) GENERAL EFFECTIVE DATE.—

Post, p. 228.

For general effective date, see section 201.

SEC. 105. AMENDMENTS RELATED TO TITLE V.

(a) GENERAL RULE.—

92 Stat. 2879.

(1) AMENDMENTS RELATED TO SECTION 502 OF THE ACT.—

26 USC 7463.

(A) Subsection (g) of section 7463 (relating to small tax case procedures) is hereby repealed.

26 USC 7456.

(B) Subsection (c) of section 7456 (relating to commissioners of the Tax Court) is amended by striking out "sections 7428" and inserting in lieu thereof "sections 7428, 7463".

92 Stat. 2880.

26 USC 6411.

(2) AMENDMENT RELATED TO SECTION 504 OF THE ACT.—Paragraph (2) of section 6411(d) (relating to tentative refund of tax under claim of right adjustment) is amended to read as follows:

"(2) ALLOWANCE OF ADJUSTMENTS.—Within a period of 90 days from the date on which an application is filed under paragraph (1) or from the date of the overpayment (determined under section 1341(b)(1)), whichever is later, the Secretary shall—

26 USC 1341.

"(A) review the application,

"(B) determine the amount of the overpayment, and

"(C) apply, credit, or refund such overpayment,

in a manner similar to the manner provided in subsection (b)."

92 Stat. 2881.

(3) AMENDMENTS RELATED TO SECTION 511 OF THE ACT.—

26 USC 2040.

(A) AGGREGATE ADJUSTED CONSIDERATION MUST BE LESS THAN VALUE.—Paragraph (2) of section 2040(c) (relating to limitations) is amended by adding at the end thereof the following new subparagraph:

"(C) AGGREGATE ADJUSTED CONSIDERATION MUST BE LESS THAN VALUE.—Paragraph (1) shall not apply if the sum of—

"(i) the adjusted consideration furnished by the decedent, and

"(ii) the adjusted consideration furnished by the decedent's spouse,

equals or exceeds the value of the interest."

(B) CLERICAL AMENDMENT.—Paragraph (1) of section 2040(c) is amended by striking out "subsections (a)" and inserting in lieu thereof "subsection (a)". 26 USC 2040.

(4) AMENDMENTS RELATED TO SECTION 514 OF THE ACT.— 92 Stat. 2883.

(A) The first sentence of paragraph (3) of section 2055(e) is amended— 26 USC 2055.

(i) by striking out "subparagraph (a) or (B)" and inserting in lieu thereof "subparagraph (A) or (B)", and

(ii) by striking out "so that interest" and inserting in lieu thereof "so that the interest".

(B) Section 514 of the Revenue Act of 1978 is amended by adding at the end thereof the following new subsection:

"(c) EFFECTIVE DATES.— 26 USC 2055 note.

"(1) FOR SUBSECTION (a).—The amendment made by subsection (a) shall apply in the case of decedents dying after December 31, 1969.

"(2) FOR SUBSECTION (b).—Subsection (b)—

"(A) insofar as it relates to section 170 of the Internal Revenue Code of 1954 shall apply to transfers in trust and contributions made after July 31, 1969, and 26 USC 170.

"(B) insofar as it relates to section 2522 of the Internal Revenue Code of 1954 shall apply to transfers made after December 31, 1969." 26 USC 2522.

(5) AMENDMENTS RELATED TO SECTION 515 OF THE ACT.— 92 Stat. 2884.

(A) AMENDMENT OF SECTION 1040 OF THE CODE.—Section 1040 (relating to use of certain appreciated carryover basis property to satisfy pecuniary bequest) is amended by adding at the end thereof the following new subsection: 26 USC 1040.

"(d) APPLICATION TO SECTION 2032A PROPERTY.—For purposes of this section, references to carryover basis property shall be treated as including a reference to property the valuation of which is determined under section 2032A." 26 USC 2032A.

(B) PERIOD FOR WHICH SECTION 1040 APPLIES.—Notwithstanding section 515 of the Revenue Act of 1978, section 1040 of the Internal Revenue Code of 1954 (as amended by subparagraph (A)) shall apply with respect to the estates of decedents dying after December 31, 1976. 26 USC 1040 note. *Supra.*

(6) AMENDMENTS RELATED TO SECTION 531 OF THE ACT.— 92 Stat. 2886.

(A) Paragraph (6) of section 216(b) (relating to deduction of taxes, interest, and business depreciation by cooperative housing corporation tenant-stockholder) is amended by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively, and by striking out subparagraph (A) and inserting in lieu thereof the following new subparagraphs: 26 USC 216.

"(A) IN GENERAL.—If the original seller acquires any stock of the corporation from the corporation or by foreclosure, the original seller shall be treated as a tenant-stockholder for a period not to exceed 3 years from the date of the acquisition of such stock.

"(B) STOCK ACQUISITION MUST TAKE PLACE NOT LATER THAN 1 YEAR AFTER TRANSFER OF DWELLING UNITS.—Except in the case of an acquisition of stock of a corporation by foreclosure, subparagraph (A) shall apply only if the acquisition of stock occurs not later than 1 year after the date on which the apartments or houses (or leaseholds therein) are transferred by the original seller to the corporation. For purposes of this subparagraph and subparagraph (A), the term 'by foreclosure' means by foreclosure (or by instrument in lieu of foreclosure) of any purchase-money security interest in the stock held by the original seller."

"By foreclosure."

Ante, p. 219.

(B) Subparagraph (D) of section 216(b)(6) (as redesignated by subparagraph (A) of this paragraph) is amended by adding at the end thereof the following new sentence: "The estate of an original seller shall succeed to, and take into account, the tax treatment of the original seller under this paragraph."

92 Stat. 2888.

(7) AMENDMENTS RELATED TO SECTION 543 OF THE ACT.—

26 USC 126.

(A) Section 126 (relating to certain cost-sharing payments) is amended by striking out subsections (b) and (c) and inserting in lieu thereof the following:

"(b) EXCLUDABLE PORTION.—For purposes of this section—

"(1) IN GENERAL.—The term 'excludable portion' means that portion (or all) of a payment made to any person under any program described in subsection (a) which—

"(A) is determined by the Secretary of Agriculture to be made primarily for the purpose of conserving soil and water resources, protecting or restoring the environment, improving forests, or providing a habitat for wildlife, and

"(B) is determined by the Secretary of the Treasury or his delegate as not increasing substantially the annual income derived from the property.

"(2) PAYMENTS NOT CHARGEABLE TO CAPITAL ACCOUNT.—The term 'excludable portion' does not include that portion of any payment which is properly associated with an amount which is allowable as a deduction for the taxable year in which such amount is paid or incurred.

"(c) ELECTION FOR SECTION NOT TO APPLY.—

"(1) IN GENERAL.—The taxpayer may elect not to have this section (and section 1255) apply to any excludable portion (or portion thereof).

26 USC 1255.

"(2) MANNER AND TIME FOR MAKING ELECTION.—Any election under paragraph (1) shall be made in the manner prescribed by the Secretary by regulations and shall be made not later than the due date prescribed by law (including extensions) for filing the return of tax under this chapter for the taxable year in which the payment was received or accrued.

"(d) DENIAL OF DOUBLE BENEFITS.—No deduction or credit shall be allowed with respect to any expenditure which is properly associated with any amount excluded from gross income under subsection (a).

"(e) BASIS OF PROPERTY NOT INCREASED BY REASON OF EXCLUDABLE PAYMENTS.—Notwithstanding any provision of section 1016 to the contrary, no adjustment to basis shall be made with respect to property acquired or improved through the use of any payment, to the extent that such adjustment would reflect any amount which is excluded from gross income under subsection (a)."

26 USC 1016.

(B) Paragraph (1) of section 1255(a) is amended by striking out all after subparagraph (B)(i) and inserting in lieu thereof the following: 26 USC 1255.

"(ii) the adjusted basis of such property,

shall be treated as ordinary income. Such gain shall be recognized notwithstanding any other provision of this subtitle, except that this section shall not apply to the extent such gain is recognized as ordinary income under any other provision of this part."

(C) Subsection (a)(9) of section 126 (relating to certain cost-sharing payments) is amended by inserting "or his delegate" after "Secretary of the Treasury". 26 USC 126.

(D) Paragraph (2) of section 1255(b) (relating to special rules applicable to gain from disposition of section 126 property) is amended by striking out "(2)" and inserting in lieu thereof "(2) for purposes of sections 163(d), 170(e), 341(e)(12), 453(d)(4)(B), and 751(c),". 26 USC 1255.

(E) Paragraph (10) of section 126(a) (relating to certain cost-sharing payments) is amended by striking out "Any State program" and inserting in lieu thereof "Any program of a State, possession of the United States, a political subdivision of any of the foregoing, or the District of Columbia". 26 USC 126.

(b) EFFECTIVE DATES.—

(1) SPECIAL EFFECTIVE DATE FOR SUBSECTION (a)(1).—The amendments made by subsection (a)(1) shall take effect on the date of the enactment of this Act. 26 USC 7456 note.

(2) GENERAL EFFECTIVE DATE.—

For general effective date, see section 201. *Post*, p. 228.

SEC. 106. AMENDMENTS RELATED TO TITLE VI.

(a) IN GENERAL.—

(1) Paragraph (1) of section 172(b) (relating to net operating loss carrybacks and carryovers) is amended by redesignating the subparagraph (H) added by section 601(b)(1) of the Revenue Act of 1978 as subparagraph (I). 26 USC 172. 92 Stat. 2892.

(2) Subsection (a) of section 1016 (relating to adjustments of basis) is amended by redesignating the paragraph (21) added by section 601(b)(3) of the Revenue Act of 1978 as paragraph (22). 26 USC 1016.

(3) Paragraph (3) of section 601(b) of the Revenue Act of 1978 is amended by striking out "by redesignating paragraph (23) as (22) and by inserting after paragraph (20)" and inserting in lieu thereof "by inserting before paragraph (23)".

(4) Subsection (a) of section 1391 (defining general stock ownership corporation) is amended— 26 USC 1391.

(A) by striking out ", and" at the end of paragraph (1) and inserting in lieu thereof a semicolon,

(B) by inserting "or" at the end of paragraph (4)(D)(ii),

(C) by inserting "and" at the end of paragraph (4)(D)(iii), and

(D) by inserting "and" at the end of paragraph (4)(E).

(5) Subsection (c) of section 1392 is amended by striking out "WHERE" in the subsection heading and inserting in lieu thereof "WHEN". 26 USC 1392.

(6) Subparagraph (A) of section 172(b)(1) is amended by striking out "and (H)" and inserting in lieu thereof ", (H), and (I)". 26 USC 172.

(7) Subparagraph (B) of section 172(b)(1) is amended by striking out "and (G)" and inserting in lieu thereof "(G), and (I)".

(b) EFFECTIVE DATE.—

Post, p. 228. For general effective date, see section 201.

SEC. 107. AMENDMENTS RELATED TO TITLE VII.

(a) IN GENERAL.—

92 Stat. 2897. (1) AMENDMENTS RELATED TO SECTION 701 OF THE ACT.—

(A) COMPUTATION OF ADJUSTED ITEMIZED DEDUCTIONS IN CASE OF ESTATES AND TRUSTS.—Subparagraph (C) of section 57(b)(2) (relating to special rules for estates and trusts) is amended by striking out "section 170(c)(2)(B)" each place it appears and inserting in lieu thereof "section 170(c) (determined without regard to section 170(c)(2)(A))".

26 USC 57.

26 USC 911 note.

(B) EFFECTIVE DATE FOR PROVISION RELATING TO FOREIGN TAXES ATTRIBUTABLE TO SECTION 911 EXCLUSION.—Subparagraph (B) of section 701(u)(10) of the Revenue Act of 1978 (relating to effective date) is amended to read as follows:

26 USC 911.

"(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) shall apply to taxable years beginning in calendar year 1978 but only in the case of taxpayers who make an election under section 209(c) of the Foreign Earned Income Act of 1978."

26 USC 911 note.

26 USC 58.

(C) ALLOCATION OF ITEMS OF TAX PREFERENCE IN THE CASE OF ESTATES AND TRUSTS.—Paragraph (1) of section 58(c) (relating to estates and trusts) is amended by striking out "on the basis of the income of the estate or trust allocable to each" and inserting in lieu thereof "in accordance with regulations prescribed by the Secretary".

26 USC 1250.

(D) AMENDMENT OF SECTION 1250.—The last sentence of section 1250(a)(1)(B) (relating to gain from disposition of certain depreciable property) is amended by inserting before the period at the end thereof the following: "which was allowed under section 167(k)".

(E) CLERICAL AMENDMENTS.—

26 USC 37. (i) Paragraph (3) of section 701(a) of the Revenue Act of 1978 is amended by striking out "Subsection (c)" and inserting in lieu thereof "Subsection (e)".

26 USC 191. (ii) Subparagraph (C) of section 191(f)(2) is amended by striking out "the date of" and inserting in lieu thereof "the date".

92 Stat. 2925. (2) AMENDMENTS RELATED TO SECTION 702 OF THE ACT.—

26 USC 1014. (A) Paragraph (3) of section 1014(a) is amended by striking out "section 2032.1" and inserting in lieu thereof "section 2032A".

26 USC 2613. (B)(i) Clause (i) of section 2613(e)(2)(A) is amended by inserting "(other than as a potential appointee under a power of appointment held by another)" after "the trust".

(ii) Subparagraph (B) of section 2613(e)(2) is amended—

(I) by inserting after clause (ii) the following new clause:

"(iii) an employee of the grantor or of any beneficiary,",

(II) by striking out clause (vi), by redesignating clauses (iii), (iv), and (v) as clauses (iv), (v), and (vi), respectively, and

(III) by inserting "or" at the end of clause (vi) (as so redesignated).

Repeal. 26 USC 1016. (C) Paragraph (3) of section 702(r) of the Revenue Act of 1978 is hereby repealed.

(D) The section 6698 which relates to failure to file information with respect to carryover basis property is redesignated as section 6698A. 26 USC 6698A.

(E) The table of sections for subchapter B of chapter 68 is amended by striking out 26 USC 6698A.

"Sec. 6698. Failure to file information with respect to carryover basis property."

and inserting in lieu thereof the following:

"Sec. 6698A. Failure to file information with respect to carryover basis property."

(F)(i) If the executor elects the benefits of this subparagraph with respect to any estate, section 2035(b) of the Internal Revenue Code of 1954 (relating to adjustments for gifts made within 3 years of decedent's death) shall be applied with respect to transfers made by the decedent during 1977 as if paragraph (2) of such section 2035(b) read as follows: 26 USC 2035 note. 26 USC 2035.

"(2) to any gift to a donee made during 1977 to the extent of the amount of such gift which was excludable in computing taxable gifts by reason of section 2503(b) (relating to $3,000 annual exclusion for purposes of the gift tax) determined without regard to section 2513(a)." 26 USC 2503. 26 USC 2513.

(ii) The election under clause (i) with respect to any estate shall be made on or before the later of—

(I) the due date for filing the estate tax return, or

(II) the day which is 120 days after the date of the enactment of this Act.

(3) AMENDMENTS RELATED TO SECTION 703 OF THE ACT.— 92 Stat. 2939.

(A) The first sentence of paragraph (8) of section 46(f) is amended by striking out "subsection (a)(7)(D)" and inserting in lieu thereof "subsection (a)(7)(C)". 26 USC 46.

(B) Subsection (e) of section 703 of the Revenue Act of 1978 is hereby repealed. Repeal. 26 USC 911.

(C) Paragraph (1) of section 703(q) of the Revenue Act of 1978 is amended by striking out "section 103(d)" and inserting in lieu thereof "section 103(c)". 26 USC 103.

(b) EFFECTIVE DATE.—

For general effective date, see section 201. *Post*, p. 228.

SEC. 106. AMENDMENTS RELATED TO CERTAIN OTHER ACTS ENACTED DURING 1978.

(a) FOREIGN EARNED INCOME ACT OF 1978.— 26 USC 1 note.

(1) IN GENERAL.—

(A) TAX TABLES TO APPLY TO INDIVIDUALS CLAIMING SECTION 911 EXCLUSION.—Section 202 of the Foreign Earned Income Act of 1978 is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection: 92 Stat. 3098. 26 USC 43, 911, 1302, 1304, 1402, 6012, 6091.

"(f) TAX TABLES TO APPLY TO INDIVIDUALS CLAIMING SECTION 911 EXCLUSION.—Paragraph (1) of section 3(b) (relating to tax tables not to apply to certain individuals) is amended by striking out subparagraph (A)." 26 USC 3.

(B) DETERMINATION OF HOUSING DEDUCTION.—

(i) Clause (i) of section 913(e)(3)(A) is amended by striking out "earned income" each place it appears and inserting in lieu thereof "housing income". 26 USC 913.

(ii) Subsection (e) of section 913 is amended by adding at the end thereof the following new paragraphs:

"(6) HOUSING INCOME.—For purposes of this subsection, the term 'housing income' has the meaning given to the term 'earned income' by section 911(b) (determined with the rule set forth in paragraph (3) of section 911(c)).

26 USC 911.

"(7) RECAPTURE OF EXCESS HOUSING DEDUCTIONS ATTRIBUTABLE TO TREATMENT OF AFTER-RECEIVED COMPENSATION.—

"(A) IN GENERAL.—There shall be included in the gross income of the individual for the taxable year in which any after-received compensation is received an amount equal to any excess housing deduction determined for such year.

"(B) EXCESS HOUSING DEDUCTION.—For purposes of subparagraph (A), the excess housing deduction determined for any taxable year is the excess (if any) of—

"(i) the aggregate amount which has been allowed as a housing deduction (for such taxable year and all prior taxable years), over

"(ii) the aggregate amount which would have been allowable as a housing deduction (for such taxable year and all prior taxable years for which a housing deduction has been allowed), by taking after-received compensation into account under this subsection as if it had been received in the taxable year in which the services were performed.

In applying the preceding sentence to any taxable year, proper adjustment shall be made for the effect of applying such sentence for purposes of all prior taxable years.

"(C) TREATMENT OF AMOUNT INCLUDED IN INCOME.—Any amount included in gross income under subparagraph (A) shall not be treated as income for purposes of applying subsection (c) of this section.

"(D) DEFINITIONS.—For purposes of this paragraph—

"(i) HOUSING DEDUCTION.—The term 'housing deduction' means that portion of the deduction allowable under subsection (a) for any taxable year which is attributable to qualified housing expenses. For such purpose, qualified housing expenses shall be taken into account after all other amounts described in subsection (b).

"(ii) AFTER-RECEIVED COMPENSATION.—The term 'after-received compensation' means compensation received by an individual in a taxable year which is attributable to services performed by such individual in the third preceding, second preceding, or first preceding taxable year."

26 USC 911.

(C) CLERICAL AMENDMENT.—Paragraph (2) of section 911(a) (relating to income earned by individuals in certain camps) is amended by striking out "qualified foreign" and inserting in lieu thereof "a foreign country or".

(D) AMENDMENT OF LAST SENTENCE OF SECTION 911(a).—The last sentence of section 911(a) (relating to income earned by individuals in certain camps) is amended—

(i) by inserting "any deduction," after "his gross income", and

26 USC 217.

(ii) by striking out "deductions allowed by sections 217" and inserting in lieu thereof "deduction allowed by section 217".

(E) AMENDMENT OF SECTION 3(b).—Paragraph (1) of section 3(b) is amended by redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively. 26 USC 3.

(F) QUALIFIED HOME LEAVE TRAVEL EXPENSES.—

(i) Subsection (g) of section 913 (relating to qualified home leave travel expenses) is amended to read as follows: 26 USC 913.

"(g) QUALIFIED HOME LEAVE TRAVEL EXPENSES.—

"(1) IN GENERAL.—For purposes of this section, the term 'qualified home leave travel expenses' means the reasonable amounts paid or incurred by or on behalf of an individual for the transportation of such individual, his spouse, and each dependent—

"(A) from a point of outside the United States to the individual's principal domestic residence, and

"(B) from the individual's principal domestic residence to a point outside the United States.

"(2) LIMITATION TO COST BETWEEN TAX HOME AND PLACE OF RESIDENCE.—The amount taken into account under subparagraph (A) or (B) of paragraph (1) with respect to any transportation shall not exceed the reasonable amount for transportation between the location of the individual's tax home outside the United States and the individual's principal domestic residence.

"(3) SUBSTITUTION OF NEAREST PORT OF ENTRY IN CERTAIN CASES.—With respect to any person whose travel in the United States is not travel to and from the individual's principal domestic residence, paragraphs (1) and (2) shall be applied by substituting the nearest port of entry in the United States for the individual's principal domestic residence.

"(4) NEAREST PORT OF ENTRY.—For purposes of paragraph (3), the nearest port of entry in the United States shall not include a nearest port of entry located in Alaska or Hawaii unless the individual elects to have such port of entry taken into account.

"(5) PRINCIPAL DOMESTIC RESIDENCE DEFINED.—For purposes of this subsection, an individual's principal domestic residence is the location of such individual's present (or, if none, most recent) principal residence in the United States.

"(6) 1 ROUND TRIP PER 12-MONTH PERIOD ABROAD.—Amounts may be taken into account under paragraph (4) of subsection (b) only with respect to 1 trip to the United States, and 1 trip from the United States, per person for each continuous period of 12 months for which the individual's tax home is in a foreign country."

(ii) Clause (ii) of section 913(i)(1)(C) (relating to qualified second household) is amended by striking out ", and paragraph (1) of subsection (g)," and inserting in lieu thereof ", and subsection (g),".

(G) AMENDMENT OF SECTION 119.—Subsection (a) of section 119 (as in effect on the day before the date of the enactment of the Foreign Earned Income Act of 1978) is amended by striking out "(a) GENERAL RULE.—". 26 USC 119. 26 USC 1 note.

(2) EFFECTIVE DATES.— 26 USC 3 note.

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendments made by paragraph (1) shall take effect as if included in the Foreign Earned Income Act of 1978.

(B) PARAGRAPH (1)(E).—The amendment made by paragraph (1)(E) shall apply to taxable years beginning after December 31, 1978.

26 USC 1 note.

(b) AMENDMENTS RELATED TO THE BLACK LUNG BENEFITS REVENUE ACT.—

(1) CORRECTION OF PROVISIONS RELATED TO TAX COURT JURISDICTION.—

26 USC 6503.

(A) Subsection (g) of section 6503 is amended—

(i) by striking out "4971, 4975, 4985, or 4986" and inserting in lieu thereof "4951, 4952, 4971, or 4975", and

(ii) by striking out "4971(c)(3), 4975(f)(6), 4985(e)(4), or 4986(e)(2)" and inserting in lieu thereof "4951(e)(4), 4952(e)(2), 4971(c)(3), or 4975(f)(6)".

26 USC 6511.

(B) Subsection (f) of section 6511 is amended—

(i) by inserting "or section 4975" after "chapter 42", and

(ii) by striking out "CHAPTER 42" in the subsection heading and inserting in lieu thereof "CHAPTER 42 AND CERTAIN CHAPTER 43".

26 USC 6862.

(C) Section 6862 is amended by striking out "certain excise taxes" and inserting in lieu thereof "the taxes imposed by chapters 41, 42, 43, and 44".

26 USC 7422.

(D) Subsection (g) of section 7422 is amended by striking out "4944, 4945" each place it appears and inserting in lieu thereof "4944, 4945, 4951, 4952".

(E) Paragraph (1) of section 7422(g) is amended by striking out "section 4945(a) (relating to initial taxes on taxable expenditures)" and inserting in lieu thereof "section 4945(a) (relating to initial taxes on taxable expenditures), section 4951(a) (relating to initial taxes on self-dealing), 4952(a) (relating to initial taxes on taxable expenditures)".

(F) Subsection (g) of section 7422 is amended by striking out "section 4945(b) (relating to additional taxes on taxable expenditures)" and inserting in lieu thereof "section 4945(b) (relating to additional taxes on taxable expenditures), section 4951(b) (relating to additional taxes on self-dealing), 4952(b) (relating to additional taxes on taxable expenditures)".

(2) CORRECTION OF REFERENCES TO 1969 ACT.—

92 Stat. 12.
30 USC 934, 934a.
30 USC 801 note.
30 USC 801 note.

(A) Subsections (b), (c)(1), and (d) of section 3 of the Black Lung Benefits Revenue Act of 1977 are each amended by striking out "Federal Coal Mine Health and Safety Act of 1969" each place it appears and inserting in lieu thereof "Federal Mine Safety and Health Act of 1977".

26 USC 501, 192.

(B) Sections 501(c)(21) and 192(e) are each amended by striking out "Federal Coal Mine Health and Safety Act of 1969" and inserting in lieu thereof "Federal Mine Safety and Health Act of 1977".

(3) CLERICAL AMENDMENTS.—

92 Stat. 12.
30 USC 934a.

(A) Paragraph (1) of section 3(c) of the Black Lung Benefits Revenue Act of 1977 is amended by striking out "subsection (a)(4)" and inserting in lieu thereof "subsection (a)(5)".

26 USC 7454.

(B) Subsection (b) of section 7454 is amended by striking out "section 502(c)(21)" and inserting in lieu thereof "section 501(c)(21)".

26 USC 192 note.

(4) EFFECTIVE DATE.—Any amendment made by this subsection shall take effect as if included in the provision of the Black Lung Benefits Revenue Act of 1977 to which such amendment relates.

26 USC 1 note.

26 USC 1 note.

(c) AMENDMENTS RELATED TO ENERGY TAX ACT OF 1978.—

26 USC 6421.

(1) REPAYMENT OF TAX ON GASOLINE USED IN COMMERCIAL FISHERIES.—Subparagraph (B) of section 6421(d)(2) (defining

qualified business use) is amended by adding at the end thereof the following new sentence: "The preceding sentence shall not apply to use in a vessel employed in the fisheries or in the whaling business."

(2) TIRES USED IN MANUFACTURE OF BUSES.—

(A) Subparagraph (C) of section 6416(b)(3) (relating to tax-paid articles used for further manufacture, etc.) is amended by striking out "such other article is" and all that follows and inserting in lieu thereof the following: "such other article is— 26 USC 6416.

"(i) an automobile bus chassis or an automobile bus body, or

"(ii) by any person exported, sold to a State or local government for the exclusive use of a State or local government, sold to a nonprofit educational organization for its exclusive use, or used or sold for use as supplies for vessels or aircraft;".

(B) Subparagraph (B) of section 6416(b)(4) (relating to tires and inner tubes) is amended to read as follows:

"(B) such other article is—

"(i) an automobile bus chassis or an automobile bus body, or

"(ii) by any person exported, sold to a State or local government for the exclusive use of a State or local government, sold to a nonprofit educational organization for its exclusive use, or used or sold for use as supplies for vessels or aircraft,".

(C) Subsection (e) of section 4071 (relating to tires on imported articles) is amended by striking out "under section 4061" and inserting in lieu thereof "under section 4061 or if such article is an automobile bus chassis or an automobile bus body". 26 USC 4071. 26 USC 4061.

(3) REFUND OF TAX ON LUBRICATING OIL USED IN PRODUCING REREFINED OIL.—Paragraph (2) of section 6416(b) (relating to credit or refund for certain uses) is amended by striking out "or" at the end of subparagraph (L), by striking out the period at the end of subparagraph (M) and inserting in lieu thereof "; or", and by inserting after subparagraph (M) the following: 26 USC 6416.

"(N) in the case of lubricating oil taxable under section 4091 which is contained in a mixture which is rerefined oil (as defined in section 4093(b)(3)), used or sold. 26 USC 4091. 26 USC 4093.

The amount of the credit or refund under subparagraph (N) with respect to any lubricating oil shall be the amount which would be exempt from tax under section 4093."

(4) CREDIT OR REFUND OF TAX ON TRUCK CHASSIS OR BODY USED IN THE MANUFACTURE OF A BUS.—Subparagraph (A) of section 6416(b)(3) (relating to tax-paid articles used for further manufacture, etc.) is amended by striking out "component part of," and all that follows and inserting in lieu thereof the following: "component part of—

"(i) another article taxable under chapter 32, or 26 USC 4061 *et seq.*

"(ii) an automobile bus chassis or an automobile bus body, manufactured or produced by him;".

(5) Section 4221(e)(6) (relating to bus parts and accessories) is amended to read as follows: 26 USC 4221.

"(6) BUS PARTS AND ACCESSORIES.—Under regulations prescribed by the Secretary, the tax imposed by section 4061(b) shall not apply to any part or accessory which is sold for use by the

purchaser on or in connection with an automobile bus, or is to be resold by the purchaser or a second purchaser for such use."

26 USC 48.

(6) CLERICAL AMENDMENT.—The last sentence of section 48(a)(10)(B) is amended by striking out "51" and inserting in lieu thereof "5".

26 USC 48 note.

(7) EFFECTIVE DATE.—Any amendment made by this subsection shall take effect as if included in the provision of the Energy Tax Act of 1978 to which such amendment relates; except that the amendment made by paragraph (6) shall take effect on the first day of the first calendar month which begins more than 10 days after the date of the enactment of this Act.

26 USC 1 note.

92 Stat. 1382.

(d) AMENDMENTS RELATED TO PUBLIC LAW 95-472.—Subsection (c) of section 6324B (relating to special lien for additional estate tax attributable to farm, etc., valuation) is amended to read as follows:

26 USC 6324B.

"(c) CERTAIN RULES AND DEFINITIONS MADE APPLICABLE.—

"(1) IN GENERAL.—The rule set forth in paragraphs (1), (3), and (4) of section 6324A(d) shall apply with respect to the lien imposed by this section as if it were a lien imposed by section 6324A.

"(2) QUALIFIED REAL PROPERTY.—For purposes of this section, the term 'qualified real property' includes qualified replacement property (within the meaning of section 2032A(h)(3)(B))."

TITLE II—GENERAL EFFECTIVE DATE

26 USC 43 note.

SEC. 201. GENERAL EFFECTIVE DATE.

Except as otherwise provided in title I, any amendment made by title I shall take effect as if it had been included in the provision of the Revenue Act of 1978 to which such amendment relates.

26 USC 1 note.

Approved April 1, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-250 (Comm. on Ways and Means).
SENATE REPORT No. 96-498 (Comm. on Finance).
CONGRESSIONAL RECORD:
Vol. 125 (1979): July 16, considered and passed House.
Vol. 126 (1980): Feb. 26, considered and passed Senate, amended.
Feb. 28, House concurred in certain Senate amendments and disagreed to Senate amendment No. 67.
Mar. 18, Senate receded from its amendment No. 67 and offered another amendment to the House bill.
Mar. 19, House concurred in Senate amendment.

Public Law 96-223
96th Congress

An Act

To impose a windfall profit tax on domestic crude oil, and for other purposes.

Apr. 2, 1980
[H.R. 3919]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Crude Oil Windfall Profit Tax Act of 1980.

SECTION 1. SHORT TITLE; AMENDMENT OF 1954 CODE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Crude Oil Windfall Profit Tax Act of 1980". 26 USC 1 note.

(b) AMENDMENT OF 1954 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954. 26 USC 1 *et seq.*

(c) TABLE OF CONTENTS.—

Sec. 1. Short title; amendment of 1954 Code; table of contents.

TITLE I—WINDFALL PROFIT TAX ON DOMESTIC CRUDE OIL

Sec. 101. Windfall profit tax.
Sec. 102. Allocation of net revenues from windfall profit tax to certain uses.
Sec. 103. Study of effects of decontrol of oil prices and of windfall profit tax.

TITLE II—ENERGY CONSERVATION AND PRODUCTION INCENTIVES

PART I—RESIDENTIAL ENERGY CREDIT

Sec. 201. General provisions relating to credit.
Sec. 202. Renewable energy source expenditures.
Sec. 203. Provisions to prevent double benefits.

PART II—BUSINESS ENERGY INVESTMENT CREDITS

Sec. 221. Changes in amount and period of application of energy percentage.
Sec. 222. Changes in energy property item descriptions.
Sec. 223. Other changes with respect to the investment credit for investment in energy property.

PART III—PRODUCTION OF FUEL FROM NONCONVENTIONAL SOURCES; ALCOHOL FUELS

Sec. 231. Production tax credit.
Sec. 232. Alcohol fuels.

PART IV—ENERGY-RELATED USES OF TAX EXEMPT BONDS

Sec. 241. Solid waste disposal facilities.
Sec. 242. Qualified hydroelectric generating facilities.
Sec. 243. Renewable energy property.
Sec. 244. Certain obligations must be in registered form and not guaranteed or subsidized under an energy program.

PART V—TERTIARY INJECTANTS

Sec. 251. Tertiary injectants.

TITLE III—LOW-INCOME ENERGY ASSISTANCE

Sec. 301. Short title.
Sec. 302. Statement of findings and purpose.
Sec. 303. Definitions.
Sec. 304. Home energy grants authorized.
Sec. 305. Eligible households.
Sec. 306. Allotments.
Sec. 307. Uses of home energy grants.
Sec. 308. State plans.
Sec. 309. Uniform data collection.
Sec. 310. Payments.
Sec. 311. Withholding.
Sec. 312. Criminal penalties.
Sec. 313. Administration.

TITLE IV—MISCELLANEOUS PROVISIONS

Sec. 401. Repeal of carryover basis.
Sec. 402. Disapproval of Presidential actions adjusting oil imports.
Sec. 403. Qualified liquidations of LIFO inventories.
Sec. 404. Exemption of certain interest income from tax.

TITLE I—WINDFALL PROFIT TAX ON DOMESTIC CRUDE OIL

SEC. 101. WINDFALL PROFIT TAX.

(a) IN GENERAL.—

(1) AMENDMENT OF SUBTITLE D.—Subtitle D (relating to miscellaneous excise taxes) is amended by adding at the end thereof the following new chapter:

"CHAPTER 45—WINDFALL PROFIT TAX ON DOMESTIC CRUDE OIL

"SUBCHAPTER A. Imposition and amount of tax.
"SUBCHAPTER B. Categories of oil.
"SUBCHAPTER C. Miscellaneous provisions.

"Subchapter A—Imposition and Amount of Tax

"Sec. 4986. Imposition of tax.
"Sec. 4987. Amount of tax.
"Sec. 4988. Windfall profit; removal price.
"Sec. 4989. Adjusted base price.
"Sec. 4990. Phaseout of tax.

26 USC 4986. **"SEC. 4986. IMPOSITION OF TAX.**

"(a) IMPOSITION OF TAX.—An excise tax is hereby imposed on the windfall profit from taxable crude oil removed from the premises during each taxable period.

"(b) TAX PAID BY PRODUCER.—The tax imposed by this section shall be paid by the producer of the crude oil.

26 USC 4987. **"SEC. 4987. AMOUNT OF TAX.**

"(a) IN GENERAL.—The amount of tax imposed by section 4986 with respect to any barrel of taxable crude oil shall be the applicable percentage of the windfall profit on such barrel.

"(b) APPLICABLE PERCENTAGE.—For purposes of subsection (a)—

"(1) GENERAL RULE FOR TIERS 1 AND 2.—The applicable percentage for tier 1 oil and tier 2 oil which is not independent producer oil is—

"Tier 1 70
"Tier 2 60

"(2) INDEPENDENT PRODUCER OIL.—The applicable percentage for independent producer oil which is tier 1 oil or tier 2 oil is—

"Tier 1 50
"Tier 2 30

"(3) TIER 3 OIL.—The applicable percentage for tier 3 oil is 30 percent.

"(c) FRACTIONAL PART OF BARREL.—In the case of a fraction of a barrel, the tax imposed by section 4986 shall be the same fraction of the amount of such tax imposed on the whole barrel.

"SEC. 4988. WINDFALL PROFIT; REMOVAL PRICE. 26 USC 4988.

"(a) GENERAL RULE.—For purposes of this chapter, the term 'windfall profit' means the excess of the removal price of the barrel of crude oil over the sum of—

"(1) the adjusted base price of such barrel, and

"(2) the amount of the severance tax adjustment with respect to such barrel provided by section 4996(c).

"(b) NET INCOME LIMITATION ON WINDFALL PROFIT.—

"(1) IN GENERAL.—The windfall profit on any barrel of crude oil shall not exceed 90 percent of the net income attributable to such barrel.

"(2) DETERMINATION OF NET INCOME.—For purposes of paragraph (1), the net income attributable to a barrel shall be determined by dividing—

"(A) the taxable income from the property for the taxable year attributable to taxable crude oil, by

"(B) the number of barrels of taxable crude oil from such property taken into account for such taxable year.

"(3) TAXABLE INCOME FROM THE PROPERTY.—For purposes of paragraph (2)—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, the taxable income from the property shall be determined under section 613(a). 26 USC 613.

"(B) CERTAIN DEDUCTIONS NOT ALLOWED.—No deduction shall be allowed for—

"(i) depletion,

"(ii) the tax imposed by section 4986,

"(iii) section 263(c) costs, or 26 USC 263.

"(iv) qualified tertiary injectant expenses to which an election under subparagraph (E) applies.

"(C) TAXABLE INCOME REDUCED BY COST DEPLETION.—Taxable income shall be reduced by the cost depletion which would have been allowable for the taxable year with respect to the property if—

"(i) all—

"(I) section 263(c) costs, and

"(II) qualified tertiary injectant expenses to which an election under subparagraph (E) applies, incurred by the taxpayer had been capitalized and taken into account in computing cost depletion, and

"(ii) cost depletion had been used by the taxpayer with respect to such property for all taxable periods.

"(D) SECTION 263(c) COSTS.—For purposes of this paragraph, the term 'section 263(c) costs' means intangible drilling and development costs incurred by the taxpayer which (by reason of an election under section 263(c)) may be

deducted as expenses for purposes of this title (other than this paragraph). Such term shall not include costs incurred in drilling a nonproductive well.

"(E) ELECTION TO CAPITALIZE QUALIFIED TERTIARY INJECTANT EXPENSES.—

"(i) IN GENERAL.—Any taxpayer may elect, with respect to any property, to capitalize qualified tertiary injectant expenses for purposes of this paragraph. Any such election shall apply to all qualified tertiary injectant expenses allocable to the property for which the election is made, and may be revoked only with the consent of the Secretary. Any such election shall be made at such time and in such manner as the Secretary shall by regulations prescribe.

"(ii) QUALIFIED TERTIARY INJECTANT EXPENSES.—The term 'qualified tertiary injectant expenses' means any expense allowable as a deduction under section 193.

Post, p. 286.

"(4) SPECIAL RULE FOR APPLYING PARAGRAPH (3)(C) TO CERTAIN TRANSFERS OF PROVEN OIL OR GAS PROPERTIES.—

"(A) IN GENERAL.—In the case of any proven oil or gas property transfer which (but for this subparagraph), would result in an increase in the amount determined under paragraph (3)(C) with respect to the transferee, paragraph (3)(C) shall be applied with respect to the transferee by taking into account only those amounts which would have been allowable with respect to the transferor under paragraph (3)(C) and those costs incurred during periods after such transfer.

"(B) PROVEN OIL OR GAS PROPERTY TRANSFER.—For purposes of subparagraph (A), the term 'proven oil or gas property transfer' means any transfer (including the subleasing of a lease or the creation of a production payment which gives the transferee an economic interest in the property) after 1978 of an interest (including an interest in a partnership or trust) in any proven oil or gas property (within the meaning of section 613A(c)(9)(A)).

26 USC 613A.

"(5) SPECIAL RULE WHERE THERE IS PRODUCTION PAYMENT.—For purposes of paragraph (2), if any portion of the taxable crude oil removed from the property is applied in discharge of a production payment, the gross income from such portion shall be included in the gross income from the property of both the person holding such production payment and the person holding the interest from which such production payment was created.

"(c) REMOVAL PRICE.—For purposes of this chapter—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the term 'removal price' means the amount for which the barrel is sold.

"(2) SALES BETWEEN RELATED PERSONS.—In the case of a sale between related persons (within the meaning of section 103(b)(6)(C)), the removal price shall not be less than the constructive sales price for purposes of determining gross income from the property under section 613.

26 USC 103.

26 USC 613.

"(3) OIL REMOVED FROM PREMISES BEFORE SALE.—If crude oil is removed from the premises before it is sold, the removal price shall be the constructive sales price for purposes of determining gross income from the property under section 613.

"(4) REFINING BEGUN ON PREMISES.—If the manufacture or conversion of crude oil into refined products begins before such oil is removed from the premises—

"(A) such oil shall be treated as removed on the day such manufacture or conversion begins, and

"(B) the removal price shall be the constructive sales price for purposes of determining gross income from the property under section 613.

26 USC 613.

"(5) MEANING OF TERMS.—The terms 'premises' and 'refined product' have the same meaning as when used for purposes of determining gross income from the property under section 613.

"SEC. 4989. ADJUSTED BASE PRICE.

26 USC 4989.

"(a) ADJUSTED BASE PRICE DEFINED.—For purposes of this chapter, the term 'adjusted base price' means the base price for the barrel of crude oil plus an amount equal to—

"(1) such base price, multiplied by

"(2) the inflation adjustment for the calendar quarter in which the crude oil is removed from the premises.

The amount determined under the preceding sentence shall be rounded to the nearest cent.

"(b) INFLATION ADJUSTMENT.—

"(1) IN GENERAL.—For purposes of subsection (a), the inflation adjustment for any calendar quarter is the percentage by which—

"(A) the implicit price deflator for the gross national product for the second preceding calendar quarter, exceeds

"(B) such deflator for the calendar quarter ending June 30, 1979.

"(2) ADDITIONAL ADJUSTMENT FOR TIER 3 OIL.—The adjusted base price for tier 3 oil shall be determined by substituting for the implicit price deflator referred to in paragraph (1)(A) an amount equal to such deflator multiplied by 1.005 to the nth power where 'n' equals the number of calendar quarters beginning after September 1979 and before the calendar quarter in which the oil is removed from the premises.

"(3) FIRST REVISION OF PRICE DEFLATOR USED.—For purposes of paragraphs (1) and (2), the first revision of the price deflator shall be used.

"(c) BASE PRICE FOR TIER 1 OIL.—For purposes of this chapter, the base price for tier 1 oil is—

"(1) the ceiling price which would have applied to such oil under the March 1979 energy regulations if it had been produced and sold in May 1979 as upper tier oil, reduced by

"(2) 21 cents.

"(d) BASE PRICES FOR TIER 2 OIL AND TIER 3 OIL.—For purposes of this chapter—

"(1) GENERAL RULE.—Except as provided in paragraph (2), the base prices for tier 2 oil and tier 3 oil shall be prices determined pursuant to the method prescribed by the Secretary by regulations. Any method so prescribed shall be designed so as to yield, with respect to oil of any grade, quality, and field, a base price which approximates the price at which such oil would have sold in December 1979 if—

"(A) all domestic crude oil were uncontrolled, and

"(B) the average removal price for all domestic crude oil (other than Sadlerochit oil) were—

"(i) $15.20 a barrel for purposes of determining base prices for tier 2 oil, and

"(ii) $16.55 a barrel for purposes of determining base prices for tier 3 oil.

"(2) INTERIM RULE.—For months beginning before October 1980 (or such earlier date as may be provided in regulations taking effect before such earlier date), the base prices for tier 2 oil and tier 3 oil, respectively, shall be the product of—

"(A)(i) the highest posted price for December 31, 1979, for uncontrolled crude oil of the same grade, quality, and field, or

"(ii) if there is no posted price described in clause (i), the highest posted price for such date for uncontrolled crude oil at the nearest domestic field for which prices for oil of the same grade and quality were posted for such date, multiplied by

"(B) a fraction the denominator of which is $35, and the numerator of which is—

"(i) $15.20 for purposes of determining base prices for tier 2 oil, and

"(ii) $16.55 for purposes of determining base prices for tier 3 oil.

For purposes of the preceding sentence, no price which was posted after January 14, 1980, shall be taken into account.

"(3) MINIMUM INTERIM BASE PRICE.—The base price determined under paragraph (2) for tier 2 oil or tier 3 oil shall not be less than the sum of—

"(A) the ceiling price which would have applied to such oil under the March 1979 energy regulations if it had been produced and sold in May 1979 as upper tier oil, plus

"(B)(i) $1 in the case of tier 2 oil, or

"(ii) $2 in the case of tier 3 oil.

26 USC 4990.

"SEC. 4990. PHASEOUT OF TAX.

"(a) PHASEOUT.—Notwithstanding any other provision of this chapter, the tax imposed by this chapter with respect to any crude oil removed from the premises during any month during the phaseout period shall not exceed—

"(1) the amount of tax which would have been imposed by this chapter with respect to such crude oil but for this subsection, multiplied by

"(2) the phaseout percentage for such month.

"(b) TERMINATION OF TAX.—Notwithstanding any other provision of this chapter, no tax shall be imposed by this chapter with respect to any crude oil removed from the premises after the phaseout period.

"(c) DEFINITIONS.—For purposes of this section—

"(1) PHASEOUT PERIOD.—The term 'phaseout period' means the 33-month period beginning with the month following the target month.

"(2) PHASEOUT PERCENTAGE.—The phaseout percentage for any month is 100 percent reduced by 3 percentage points for each month after the target month and before the month following the month for which the phaseout percentage is being determined.

"(3) TARGET MONTH.—The term 'target month' means the later of—

"(A) December 1987, or

"(B) the first month for which the Secretary publishes an estimate under subsection (d)(2).

In no event shall the target month be later than December 1990.

"(d) DETERMINATION OF AGGREGATE NET WINDFALL REVENUE.—

"(1) ESTIMATE BY THE SECRETARY.—For each month after 1986, the Secretary shall make an estimate of the aggregate net windfall revenue as of the close of such month. Any such estimate shall be made during the preceding month and shall be made on the basis of the best available data as of the date of making such estimate.

"(2) PUBLICATION.—If the Secretary estimates under paragraph (1) that the aggregate net windfall revenue as of the close of any month will exceed $227,300,000,000, the Secretary shall (not later than the last day of the preceding month) publish notice in the Federal Register that he has made such an estimate for such month. Publication in Federal Register.

"(3) AGGREGATE NET WINDFALL REVENUE DEFINED.—For purposes of this subsection, the term 'aggregate net windfall revenue' means the amount which the Secretary estimates to be the excess of—

"(A) the gross revenues from the tax imposed by section 4986 during the period beginning on March 1, 1980, and ending on the last day of the month for which the estimate is being made, over

"(B) the sum of—

"(i) the refunds of and other adjustments to such tax for such period, plus

"(ii) the decrease in the income taxes imposed by chapter 1 resulting from the tax imposed by section 4986.

For purposes of subparagraph (A), there shall not be taken into account any revenue attributable to an economic interest in crude oil held by the United States.

"Subchapter B—Categories of Oil

"Sec. 4991. Taxable crude oil; categories of oil.
"Sec. 4992. Independent producer oil.
"Sec. 4993. Incremental tertiary oil.
"Sec. 4994. Definitions and special rules relating to exemptions.

"SEC. 4991. TAXABLE CRUDE OIL; CATEGORIES OF OIL. 26 USC 4991.

"(a) TAXABLE CRUDE OIL.—For purposes of this chapter, the term 'taxable crude oil' means all domestic crude oil other than exempt oil.

"(b) EXEMPT OIL.—For purposes of this chapter, the term 'exempt oil' means—

"(1) any crude oil from a qualified governmental interest or a qualified charitable interest,

"(2) any exempt Indian oil,

"(3) any exempt Alaskan oil, and

"(4) any exempt front-end oil.

"(c) TIER 1 OIL.—For purposes of this chapter, the term 'tier 1 oil' means any taxable crude oil other than—

"(1) tier 2 oil, and

"(2) tier 3 oil.

"(d) TIER 2 OIL.—For purposes of this chapter—

"(1) IN GENERAL.—Except as provided in paragraph (2), the term 'tier 2 oil' means—

"(A) any oil which is from a stripper well property within the meaning of the June 1979 energy regulations, and

"(B) any oil from an economic interest in a National Petroleum Reserve held by the United States.

"(2) EXCLUSION OF CERTAIN OIL.—The term 'tier 2 oil' does not include tier 3 oil.

"(e) TIER 3 OIL.—For purposes of this chapter—

"(1) IN GENERAL.—The term 'tier 3 oil' means—

"(A) newly discovered oil,

"(B) heavy oil, and

"(C) incremental tertiary oil.

"(2) NEWLY DISCOVERED OIL.—The term 'newly discovered oil' has the meaning given to such term by the June 1979 energy regulations.

"(3) HEAVY OIL.—The term 'heavy oil' means all crude oil which is produced from a property if crude oil produced and sold from such property during—

"(A) the last month before July 1979 in which crude oil was produced and sold from such property, or

"(B) the taxable period,

had a weighted average gravity of 16 degrees API or less (corrected to 60 degrees Fahrenheit).

"(4) INCREMENTAL TERTIARY OIL.—

"For definition of incremental tertiary oil, see section 4993.

26 USC 4992.

"SEC. 4992. INDEPENDENT PRODUCER OIL.

"(a) GENERAL RULE.—For purposes of this chapter, the term 'independent producer oil' means that portion of an independent producer's qualified production for the quarter which does not exceed such person's independent producer amount for such quarter.

"(b) INDEPENDENT PRODUCER DEFINED.—For purposes of this section—

"(1) IN GENERAL.—The term 'independent producer' means, with respect to any quarter, any person other than a person to whom subsection (c) of section 613A does not apply by reason of paragraph (2) (relating to certain retailers) or paragraph (4) (relating to certain refiners) of section 613A(d).

26 USC 613A.

"(2) RULES FOR APPLYING PARAGRAPHS (2) AND (4) OF SECTION 613A(d).—For purposes of paragraph (1), paragraphs (2) and (4) of section 613A(d) shall be applied—

"(A) by substituting 'quarter' for 'taxable year' each place it appears in such paragraphs, and

"(B) by substituting '$1,250,000' for '$5,000,000' in paragraph (2) of section 613A(d).

"(c) INDEPENDENT PRODUCER AMOUNT.—For purposes of this section—

"(1) IN GENERAL.—A person's independent producer amount for any quarter is the product of—

"(A) 1,000 barrels, multiplied by

"(B) the number of days in such quarter (31 in the case of the first quarter of 1980).

"(2) PRODUCTION EXCEEDS AMOUNT.—If a person's qualified production for any quarter exceeds such person's independent producer amount for such quarter, the independent producer amount shall be allocated—

"(A) between tiers 1 and 2 in proportion to such person's production for such quarter of domestic crude oil in each such tier, and

"(B) within any tier, on the basis of the removal prices for such person's domestic crude oil in such tier removed during such quarter, beginning with the highest of such prices.

"(d) QUALIFIED PRODUCTION OF OIL DEFINED.—For purposes of this section—

"(1) IN GENERAL.—An independent producer's qualified production of oil for any quarter is the number of barrels of taxable crude oil—

"(A) of which such person is the producer,

"(B) which is removed during such quarter,

"(C) which is tier 1 oil or tier 2 oil, and

"(D) which is attributable to the independent producer's working interest in a property.

"(2) WORKING INTEREST DEFINED.—

"(A) IN GENERAL.—The term 'working interest' means an operating mineral interest (within the meaning of section 614(d))— 26 USC 614.

"(i) which was in existence as such an interest on January 1, 1980, or

"(ii) which is attributable to a qualified overriding royalty interest.

"(B) QUALIFIED OVERRIDING ROYALTY INTEREST.—For purposes of subparagraph (A)(ii), the term 'qualified overriding royalty interest' means an overriding royalty interest in existence as such an interest on January 1, 1980, but only if on February 20, 1980, there was in existence a binding contract under which such interest was to be converted into an operating mineral interest (within the meaning of section 614(d)).

"(3) PRODUCTION FROM TRANSFERRED PROPERTY.—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, in the case of a transfer on or after January 1, 1980, of an interest in any property, the qualified production of the transferee shall not include any production attributable to such interest.

"(B) SMALL PRODUCER TRANSFER EXEMPTION.—

"(i) IN GENERAL.—Subparagraph (A) shall not apply to any transfer of an interest in property if the transferee establishes (in such manner as may be prescribed by the Secretary by regulations) that at no time after December 31, 1979, has the property been held by a person who was a disqualified transferor for any quarter ending after September 30, 1979, and ending before the date such person transferred the interest.

"(ii) DISQUALIFIED TRANSFEROR.—The term 'disqualified transferor' means, with respect to any quarter, any person who—

"(I) had qualified production for such quarter which exceeded such person's independent producer amount for such quarter, or

"(II) was not an independent producer for such quarter.

"(iii) SPECIAL RULES.—For purposes of this paragraph—

"(I) PROPERTY HELD BY PARTNERSHIPS.—Property held by a partnership at any time shall be treated as owned proportionately by the partners of such partnership at such time.

"(II) PROPERTY HELD BY TRUST OR ESTATE.—Property held by any trust or estate shall be treated as owned both by such trust or estate and proportionately by its beneficiaries.

"(III) CONSTRUCTIVE APPLICATION.—This chapter shall be treated as having been in effect for periods after September 30, 1979, for purposes of making any determination under subclause (I) or (II) of clause (ii).

"(C) OTHER EXCEPTIONS.—Subparagraph (A) shall not apply in the case of—

"(i) a transfer of property at death,

"(ii) a change of beneficiaries of a trust which qualifies under clause (iii) of section 613A(c)(9)(B) (determined without regard to the exception at the end of such clause), and

26 USC 613A.

"(iii) any transfer so long as the transferor and transferee are required by subsection (e) to share the 1,000 barrel amount contained in subsection (c)(1)(A).

The preceding sentence shall apply in the case of any property only if the production from the property was qualified production for the transferor.

"(D) TRANSFERS INCLUDE SUBLEASES, ETC.—For purposes of this paragraph—

"(i) a sublease shall be treated as a transfer, and

"(ii) an interest in a partnership or trust shall be treated as an interest in property held by the partnership or trust.

"(e) ALLOCATION WITHIN RELATED GROUP.—

"(1) IN GENERAL.—In the case of persons who are members of the same related group at any time during any quarter, the 1,000 barrel amount contained in subsection (c)(1)(A) for days during such quarter shall be reduced for each such person by allocating such amount among all such persons in proportion to their respective qualified production for such quarter.

"(2) RELATED GROUP.—For purposes of this subsection, persons shall be treated as members of a related group if they are described in any of the following clauses:

"(A) a family,

"(B) a controlled group of corporations,

"(C) a group of entities under common control, or

"(D) if 50 percent or more of the beneficial interest in 1 or more corporations, trusts, or estates is owned by the same family, all such entities and such family.

"(3) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

"(A) CONTROLLED GROUP OF CORPORATIONS.—The term 'controlled group of corporations' has the meaning given such term by section 613A(c)(8)(D)(i).

"(B) GROUP OF ENTITIES UNDER COMMON CONTROL.—The term 'group of entities under common control' means any group of corporations, trusts, or estates which (as determined under regulations prescribed by the Secretary) are under common control. Such regulations shall be based on principles similar to the principles which apply under subparagraph (A).

"(C) FAMILY.—The term 'family' means an individual and the spouse and minor children of such individual.

"(D) CONSTRUCTIVE OWNERSHIP.—For purposes of paragraph (2)(D), an interest owned by or for a corporation, partnership, trust, or estate shall be considered as owned directly by the entity and proportionately by its shareholders, partners, or beneficiaries, as the case may be.

"(E) MEMBERS OF MORE THAN 1 RELATED GROUP.—If a person is a member of more than 1 related group during any quarter, the determination of such person's allocation under paragraph (1) shall be made by reference to the related group which results in the smallest allocation for such person.

"SEC. 4993. INCREMENTAL TERTIARY OIL.

26 USC 4993.

"(a) IN GENERAL.—For purposes of this chapter, the term 'incremental tertiary oil' means the excess of—

"(1) the amount of crude oil which is removed from a property during any month and which is produced on or after the project beginning date and during the period for which a qualified tertiary recovery project is in effect on the property, over

"(2) the base level for such property for such month.

"(b) DETERMINATION OF AMOUNT.—For purposes of this section—

"(1) BASE LEVEL.—The base level for any property for any month is the average monthly amount (determined under rules similar to rules used in determining the base production control level under the June 1979 energy regulations) of crude oil removed from such property during the 6-month period ending March 31, 1979, reduced (but not below zero) by the sum of—

"(A) 1 percent of such amount for each month which begins after 1978 and before the first month beginning after the project beginning date, and

"(B) 2½ percent of such amount for each month which begins after the project beginning date (or after 1978 if the project beginning date is before 1979) and before the month for which the base level is being determined.

"(2) MINIMUM AMOUNT IN CASE OF PROJECTS CERTIFIED BY DOE.—In the case of a project described in subsection (c)(1)(A), for the period during which the project is in effect, the amount of the incremental tertiary oil shall not be less than the incremental production determined under the June 1979 energy regulations.

"(3) ALLOCATION RULES.—The determination of which barrels of crude oil removed during any month are incremental tertiary oil shall be made—

"(A) first by allocating the amount of incremental tertiary oil between—

"(i) oil which (but for this subsection) would be tier 1 oil, and

"(ii) oil which (but for this subsection) would be tier 2 oil,

in proportion to the respective amounts of each such oil removed from the property during such month, and

"(B) then by taking into account barrels of crude oil so removed in the order of their respective removal prices, beginning with the highest of such prices.

"(c) QUALIFIED TERTIARY RECOVERY PROJECT.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified tertiary recovery project' means—

"(A) a qualified tertiary enhanced recovery project with respect to which a certification as such has been approved and is in effect under the June 1979 energy regulations, or

"(B) any project for enhancing recovery of crude oil which meets the requirements of paragraph (2).

"(2) REQUIREMENTS.—A project meets the requirements of this paragraph if—

"(A) the project involves the application (in accordance with sound engineering principles) of 1 or more tertiary recovery methods which can reasonably be expected to result in more than an insignificant increase in the amount of crude oil which will ultimately be recovered,

"(B) the project beginning date is after May 1979,

"(C) the portion of the property to be affected by the project is adequately delineated,

"(D) the operator submits (at such time and in such manner as the Secretary may by regulations prescribe) to the Secretary—

"(i) a certification from a petroleum engineer that the project meets the requirements of subparagraphs (A), (B), and (C), or

"(ii) a certification that a jurisdictional agency (within the meaning of subsection (d)(5)) has approved the project as meeting the requirements of subparagraphs (A), (B), and (C), and that such approval is still in effect, and

"(E) the operator submits (at such time and such manner as the Secretary may by regulations prescribe) to the Secretary a certification from a petroleum engineer that the project continues to meet the requirements of subparagraphs (A), (B), and (C).

"(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) TERTIARY RECOVERY METHOD.—The term 'tertiary recovery method' means—

"(A) any method which is described in subparagraphs (1) through (9) of section 212.78(c) of the June 1979 energy regulations, or

10 CFR 212.78.

"(B) any other method to provide tertiary enhanced recovery which is approved by the Secretary for purposes of this chapter.

"(2) PROJECT BEGINNING DATE.—The term 'project beginning date' means the later of—

"(A) the date on which the injection of liquids, gases, or other matter begins, or

"(B) the date on which—

"(i) in the case of a project described in subsection (c)(1)(A), the project is certified as a qualified tertiary enhanced recovery project under the June 1979 energy regulations, or

"(ii) in the case of a project described in subsection (c)(1)(B), a petroleum engineer certifies, or a jurisdictional agency approves, the project as meeting the requirements of subparagraphs (A), (B), and (C) of subsection (c)(2).

"(3) PROJECT ONLY AFFECTS PORTION OF PROPERTY.—If a qualified tertiary recovery project can reasonably be expected to increase the ultimate recovery of crude oil from only a portion of a property, such portion shall be treated as a separate property.

"(4) SIGNIFICANT EXPANSION TREATED AS SEPARATE PROJECT.—A significant expansion of any project shall be treated as a separate project.

"(5) JURISDICTIONAL AGENCY.—The term 'jurisdictional agency' means—

"(A) in the case of an application involving a tertiary recovery project on lands not under Federal jurisdiction—

"(i) the appropriate State agency in the State in which such lands are located which is designated by the Governor of such State in a written notification submitted to the Secretary as the agency which will approve projects under this subsection, or

"(ii) if the Governor of such State does not submit such written notification within 180 days after the date of the enactment of the Crude Oil Windfall Profit Tax Act of 1980, the United States Geological Survey (until such time as the Governor submits such notification), or

Ante, p. 229.

"(B) in the case of an application involving a tertiary recovery project on lands under Federal jurisdiction, the United States Geological Survey.

"(6) BASIS OF REVIEW OF CERTAIN QUALIFIED TERTIARY RECOVERY PROJECTS.—In the case of any project which is approved under subsection (c)(2)(D)(ii) and for which a certification is submitted to the Secretary, the project shall be considered as meeting the requirements of subparagraphs (A), (B), and (C) of subsection (c)(2) unless the Secretary determines that—

"(A) the approval of the jurisdictional agency was not supported by substantial evidence on the record upon which such approval was based, or

"(B) additional evidence not contained in the record upon which such approval was based demonstrates that such project does not meet the requirements of subparagraph (A), (B), or (C) of subsection (c)(2).

If the Secretary makes a determination described in subparagraph (A) or (B) of the preceding sentence, the determination of whether the project meets the requirements of subparagraphs (A), (B), and (C) of subsection (c)(2) shall be made without regard to the preceding sentence.

"(7) RULINGS RELATING TO CERTAIN QUALIFIED TERTIARY RECOVERY PROJECTS.—In the case of any tertiary recovery project for which a certification is submitted to the Secretary under subsection (c)(2)(D)(ii), a taxpayer may request a ruling from the Secretary with respect to whether such project is a qualified tertiary recovery project. The Secretary shall issue such ruling within 180 days of the date after he receives the request and such information as may be necessary to make a determination.

"SEC. 4994. DEFINITIONS AND SPECIAL RULES RELATING TO EXEMPTIONS.

26 USC 4994.

"(a) QUALIFIED GOVERNMENTAL INTEREST.—For purposes of section 4991(b)—

"(1) IN GENERAL.—The term 'qualified governmental interest' means an economic interest in crude oil if—

"(A) such interest is held by a State or political subdivision thereof or by an agency or instrumentality of a State or political subdivision thereof, and

"(B) under the applicable State or local law, all of the net income received pursuant to such interest is dedicated to a public purpose.

"(2) NET INCOME.—For purposes of this paragraph, the term 'net income' means gross income reduced by production costs, and severance taxes of general application, allocable to the interest.

"(3) AMOUNTS PLACED IN CERTAIN PERMANENT FUNDS TREATED AS DEDICATED TO PUBLIC PURPOSE.—The requirements of paragraph (1)(B) shall be treated as met with respect to any net income which, under the applicable State or local law, is placed in a permanent fund the earnings on which are dedicated to a public purpose.

"(b) QUALIFIED CHARITABLE INTEREST.—For purposes of section 4991(b)—

"(1) IN GENERAL.—The term 'qualified charitable interest' means an economic interest in crude oil if—

"(A) such interest is—

"(i) held by an organization described in clause (ii), (iii), or (iv) of section 170(b)(1)(A) which is also described in section 170(c)(2), or

26 USC 170.

"(ii) held—

"(I) by an organization described in clause (i) of section 170(b)(1)(A) which is also described in section 170(c)(2), and

"(II) for the benefit of an organization described in clause (i) of this subparagraph, and

"(B) such interest was held by the organization described in clause (i) or subclause (I) of clause (ii) of subparagraph (A) on January 21, 1980, and at all times thereafter before the last day of the taxable period.

"(2) SPECIAL RULE.—For purposes of paragraph (1)(A)(ii), an interest shall be treated as held for the benefit of an organization described in paragraph (1)(A)(i) only if all the proceeds from such interest were dedicated on January 21, 1980, and at all times thereafter before the last day of the taxable period, to the organization described in paragraph (1)(A)(i).

"(c) FRONT-END TERTIARY OIL.—

"(1) EXEMPTION FOR TERTIARY PROJECTS OF INDEPENDENTS.—For purposes of this chapter, the term 'exempt front-end oil' means any domestic crude oil—

"(A) which is removed from the premises before October 1, 1981, and

"(B) which is treated as front-end oil by reason of a front-end tertiary project on one or more properties each of which is a qualified property.

"(2) REFUNDS FOR TERTIARY PROJECTS OF INTEGRATED PRODUCERS.—

"(A) IN GENERAL.—In the case of any front-end tertiary project which does not meet the requirements of paragraph (1)(B), the excess of—

"(i) the allowed expenses of the taxpayer with respect to such project, over

"(ii) the tertiary incentive revenue,

shall be treated as a payment by the taxpayer with respect to the tax imposed by this chapter made on September 30, 1981.

"(B) LIMITATION BASED ON AMOUNT OF TAX.—The amount of the payment determined under subparagraph (A) with

respect to any producer shall not exceed the aggregate tax imposed by section 4986 with respect to front-end oil of that producer removed after February 1980 and before October 1981.

"(C) TERTIARY INCENTIVE REVENUE.—For purposes of this paragraph, the term 'tertiary incentive revenue' has the meaning given such term by the front-end tertiary provisions of the energy regulations.

"(3) DEFINITION OF ALLOWED EXPENSES; PREPAID EXPENSES NOT TAKEN INTO ACCOUNT.—For purposes of this subsection (including the application of the front-end tertiary provisions for purposes of this subsection)—

"(A) ALLOWED EXPENSES.—Except as provided in subparagraph (B), allowed expenses shall be determined under the front-end tertiary provisions of the energy regulations.

"(B) PREPAID EXPENSES NOT TAKEN INTO ACCOUNT.—The term 'allowed expenses' shall not include any amount attributable to periods after September 30, 1981.

"(C) PERIOD TO WHICH ITEM IS ATTRIBUTABLE.—For purposes of subparagraph (B)—

"(i) any injectant and any fuel shall be treated as attributable to periods before October 1, 1981, if the injectant is injected, or the fuel is used, before October 1, 1981, and

"(ii) any other item shall be treated as attributable to periods before October 1, 1981, only to the extent that under chapter 1 deductions for such item (including depreciation in respect of such item) are properly allocable to periods before October 1, 1981.

For purposes of the preceding sentence, an act shall be treated as taken before a date if it would have been taken before such date but for an act of God, a severe mechanical breakdown, or an injunction.

"(4) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

"(A) FRONT-END TERTIARY PROVISIONS.—The term 'front-end tertiary provisions' means—

"(i) the provisions of section 212.78 of the energy regulations which exempt crude oil from ceiling price limitations to provide financing for tertiary projects (as such provisions took effect on October 1, 1979), and 10 CFR 212.78.

"(ii) any modification of such provisions, but only to the extent that such modification is for purposes of coordinating such provisions with the tax imposed by this chapter.

"(B) FRONT-END OIL.—The term 'front-end oil' means any domestic crude oil which is not subject to a first sale ceiling price under the energy regulations solely by reason of the front-end tertiary provisions of such regulations.

"(C) QUALIFIED PROPERTY.—The term 'qualified property' means any property if, on January 1, 1980, 50 percent or more of the operating mineral interest in such property is held by persons who were independent producers (within the meaning of section 4992(b)) for the last quarter of 1979.

"(D) FRONT-END TERTIARY PROJECT.—The term 'front-end tertiary project' means any project which qualifies under the front-end tertiary provisions of the energy regulations.

"(E) ORDERING RULE.—Front-end oil of any taxpayer shall be treated as attributable first to projects which meet the requirements of paragraph (1)(B).

"(d) EXEMPT INDIAN OIL.—For purposes of this chapter, the term 'exempt Indian oil' means any domestic crude oil—

"(1) the producer of which is an Indian tribe, an individual member of an Indian tribe, or an Indian tribal organization under an economic interest held by such a tribe, member, or organization on January 21, 1980, and which is produced from mineral interests which are—

"(A) held in trust by the United States for the tribe, member, or organization, or

"(B) held by the tribe, member, or organization subject to a restriction on alienation imposed by the United States because it is held by an Indian tribe, an individual member of an Indian tribe, or an Indian tribal organization,

"(2) the producer of which is a native corporation organized under the Alaska Native Claims Settlement Act (as in effect on January 21, 1980), and which—

43 USC 1601 note.

"(A) is produced from mineral interests held by the corporation which were received under that Act, and

"(B) is removed from the premises before 1992, or

"(3) the proceeds from the sale of which are deposited in the Treasury of the United States to the credit of tribal or native trust funds pursuant to a provision of law in effect on January 21, 1980.

"(e) EXEMPT ALASKAN OIL.—For purposes of this chapter, the term 'exempt Alaskan oil' means any crude oil (other than Sadlerochit oil) which is produced—

"(1) from a reservoir from which oil has been produced in commercial quantities through a well located north of the Arctic Circle, or

"(2) from a well located on the northerly side of the divide of the Alaska-Aleutian Range and at least 75 miles from the nearest point on the Trans-Alaska Pipeline System.

"Subchapter C—Miscellaneous Provisions

"Sec. 4995. Withholding; depositary requirements.
"Sec. 4996. Other definitions and special rules.
"Sec. 4997. Records and information; regulations.
"Sec. 4998. Cross references.

26 USC 4995.

"SEC. 4995. WITHHOLDING; DEPOSITARY REQUIREMENTS.

"(a) WITHHOLDING BY PURCHASER.—

"(1) WITHHOLDING REQUIRED.—Except to the extent provided in regulations prescribed by the Secretary—

"(A) the first purchaser of any domestic crude oil shall withhold a tax equal to the amount of the tax imposed by section 4986 with respect to such oil from amounts payable by such purchaser to the producer of such oil, and

"(B) the first purchaser of such oil shall be liable for the payment of the tax required to be withheld under subparagraph (A) and shall not be liable to any person for the amount of any such payment.

"(2) DETERMINATION OF AMOUNT TO BE WITHHELD.—

"(A) IN GENERAL.—The purchaser shall determine the amount to be withheld under paragraph (1)—

"(i) on the basis of the certification furnished to the purchaser under section 6050C, unless the purchaser has reason to believe that any information contained in such certification is not correct, or

"(ii) if clause (i) does not apply, under regulations prescribed by the Secretary.

Post, p. 251.

"(B) NET INCOME LIMITATION NOT TO BE APPLIED.—For purposes of determining the amount to be withheld under paragraph (1), subsection (b) of section 4988 shall not apply.

"(3) ADJUSTMENTS FOR WITHHOLDING ERRORS.—

"(A) IN GENERAL.—To the extent provided in regulations prescribed by the Secretary, withholding errors made by a purchaser with respect to the crude oil of a producer removed during any calendar year shall be corrected by that purchaser by making proper adjustments in the amounts withheld from subsequent payments to such producer for crude oil removed during the same calendar year.

"(B) WITHHOLDING ERROR.—For purposes of subparagraph (A), there is a withholding error if the amount withheld by the purchaser under paragraph (1) with respect to any payment for any crude oil exceeds (or is less than) the tax imposed by section 4986 with respect to such oil (determined without regard to section 4988(b)).

"(C) LIMITATION ON AMOUNT OF ADJUSTMENTS.—No adjustment shall be required under subparagraph (A) with respect to any payment for any crude oil to the extent that such adjustment would result in amounts withheld from such payment in excess of the windfall profit from such crude oil.

"(D) VOLUNTARY WITHHOLDING.—The Secretary may by regulations provide for withholding under this subsection of additional amounts from payments by any purchaser to any producer if the purchaser and producer agree to such withholding. For purposes of this title, any amount withheld pursuant to such an agreement shall be treated as an amount required to be withheld under paragraph (1).

"(4) PRODUCER TREATED AS HAVING PAID WITHHELD AMOUNT.—

"(A) IN GENERAL.—The producer of any domestic crude oil shall be treated as having paid any amount withheld with respect to such oil under this subsection.

"(B) TIME PAYMENT DEEMED MADE.—The producer shall be treated as having made any payment described in subparagraph (A) on the last day of the first February after the calendar year in which the oil is removed from the premises.

"(5) PRODUCER REQUIRED TO FILE RETURN ONLY TO EXTENT PROVIDED IN REGULATIONS.—Except to the extent provided in regulations, the producer of crude oil with respect to which withholding is required under paragraph (1) shall not be required to file a return of the tax imposed by section 4986 with respect to such oil.

"(6) PURCHASER'S QUARTERLY RETURNS TO CONTAIN SUMMARY.—The purchaser's return of tax under this chapter for any calendar quarter of any calendar year shall contain such information (with respect to such quarter and the prior quarters of such calendar year) as may be necessary to facilitate the coordination of the withholding of tax by such purchaser with respect to each producer with the determination of the tax imposed by section 4986 with respect to such producer.

"(7) ELECTION FOR PURCHASER AND OPERATOR TO HAVE OPERATOR TAKE PLACE OF PURCHASER.—

"(A) IN GENERAL.—If the purchaser of domestic crude oil and the operator of the property from which the crude oil was produced make a joint election under this paragraph with respect to such property (or portion thereof)—

"(i) the operator shall be substituted for the purchaser for purposes of applying this subsection and subsection (b) (and so much of subtitle F as relates to such subsections), and

26 USC 6001.

"(ii) if the operator is not an integrated oil company, the operator shall be treated as having the same status as the purchaser for purposes of applying subsection (b) with respect to amounts withheld by the operator by reason of such election.

"(B) REGULATIONS MAY LIMIT ELECTION.—The Secretary may by regulations limit the circumstances under which an election under this paragraph may be made to situations where substituting the operator for the purchaser is administratively more practicable.

"(8) NO ASSESSMENTS OR REFUNDS BEFORE CLOSE OF THE YEAR.—Except to the extent provided in regulations prescribed by the Secretary, in the case of any oil subject to withholding under this subsection—

"(A) no notice of any deficiency with respect to the tax imposed by section 4986 may be mailed under section 6212, and

26 USC 6212.

"(B) no proceeding in any court for the refund of the tax imposed by section 4986 may be begun,

before the last day of the first February after the calendar year in which such oil was removed from the premises.

"(b) DEPOSITARY REQUIREMENTS.—

"(1) INTEGRATED OIL COMPANIES.—In the case of an integrated oil company, deposit of the estimated amount of—

"(A) withholding under subsection (a) by such company, and

"(B) such company's liability for the tax imposed by section 4986 with respect to oil for which withholding is not required,

shall be made twice a month.

"(2) PERSONS WHO ARE NOT INTEGRATED OIL COMPANIES.—In the case of a person, other than an integrated oil company—

"(A) DEPOSITS OF WITHHELD AMOUNTS.—Deposit of the amounts required to be withheld under subsection (a) shall be made not later than—

"(i) except as provided in clause (ii), 45 days after the close of the month in which the oil was removed, or

"(ii) in the case of oil purchased under a contract therefor by an independent refiner under which no payment is required to be made before the 46th day after the close of the month in which the oil is purchased, before the first day of the 3rd month which begins after the close of the month in which such oil was removed.

"(B) ESTIMATED SECTION 4986 TAX.—Deposits of the estimated amount of such person's liability for the tax imposed by section 4986 with respect to oil for which withholding is not required shall be made not later than 45 days after the

close of the month in which the oil was removed from the premises.

"(3) INTEGRATED OIL COMPANY DEFINED.—For purposes of this subsection, the term 'integrated oil company' means a taxpayer described in paragraph (2) or (4) of section 613A(d) who is not an independent refiner. 26 USC 613A.

"(4) INDEPENDENT REFINER.—For purposes of this subsection, the term 'independent refiner' has the same meaning as in paragraph (3) of section 3 of the Emergency Petroleum Allocation Act of 1973 (as in effect on January 1, 1980), except that 'the preceding calendar quarter' shall be substituted for 'November 27, 1973' in applying such paragraph for purposes of this paragraph. 15 USC 752.

"(c) CROSS REFERENCE.—

"For provision authorizing the Secretary to establish by regulations the mode and time for collecting the tax imposed by section 4986 (to the extent not otherwise provided in this chapter), see section 6302(a).

"SEC. 4996. OTHER DEFINITIONS AND SPECIAL RULES. 26 USC 4996.

"(a) PRODUCER AND OPERATOR.—For purposes of this chapter—

"(1) PRODUCER.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'producer' means the holder of the economic interest with respect to the crude oil.

"(B) PARTNERSHIPS.—

"(i) IN GENERAL.—If (but for this subparagraph) a partnership would be treated as the producer of any crude oil—

"(I) such crude oil shall be allocated among the partners of such partnership, and

"(II) any partner to whom such crude oil is allocated (and not the partnership) shall be treated as the producer of such crude oil.

"(ii) ALLOCATION.—Except to the extent otherwise provided in regulations, any allocation under clause (i)(I) shall be determined on the basis of a person's proportionate share of the income of the partnership.

"(2) OPERATOR.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'operator' means the person primarily responsible for the management and operation of crude oil production on a property.

"(B) DESIGNATION OF OTHER PERSON.—Under regulations prescribed by the Secretary, the term 'operator' means the person (or persons) designated with respect to a property (or portion thereof) as the operator for purposes of this chapter by persons holding operating mineral interests in the property.

"(b) OTHER DEFINITIONS.—For purposes of this chapter—

"(1) CRUDE OIL.—The term 'crude oil' has the meaning given to such term by the June 1979 energy regulations.

"(2) BARREL.—The term 'barrel' means 42 United States gallons.

"(3) DOMESTIC.—The term 'domestic', when used with respect to crude oil, means crude oil produced from an oil well located in the United States or in a possession of the United States.

26 USC 638.

"(4) UNITED STATES.—The term 'United States' has the meaning given to such term by paragraph (1) of section 638 (relating to Continental Shelf areas).

"(5) POSSESSION OF THE UNITED STATES.—The term 'possession of the United States' has the meaning given to such term by paragraph (2) of section 638.

"(6) INDIAN TRIBE.—The term 'Indian tribe' has the meaning given to such term by section 106(b)(2)(C)(ii) of the Natural Gas Policy Act of 1978 (15 U.S.C. 3316(b)(2)(C)(ii)).

"(7) TAXABLE PERIOD.—The term 'taxable period' means—

"(A) March 1980, and

"(B) each calendar quarter beginning after March 1980.

"(8) ENERGY REGULATIONS.—

"(A) IN GENERAL.—The term 'energy regulations' means regulations prescribed under section 4(a) of the Emergency Petroleum Allocation Act of 1973 (15 U.S.C. 753(a)).

"(B) MARCH 1979 ENERGY REGULATIONS.—The March 1979 energy regulations shall be the terms of the energy regulations as such terms existed on March 1, 1979.

"(C) JUNE 1979 ENERGY REGULATIONS.—The June 1979 energy regulations—

"(i) shall be the terms of the energy regulations as such terms existed on June 1, 1979, and

"(ii) shall be treated as including final action taken pursuant thereto before June 1, 1979, and as including action taken before, on, or after such date with respect to incremental production from qualified tertiary enhanced recovery projects.

"(D) CONTINUED APPLICATION OF REGULATIONS AFTER DECONTROL.—Energy regulations shall be treated as continuing in effect without regard to decontrol of oil prices or any other termination of the application of such regulations.

"(c) SEVERANCE TAX ADJUSTMENT.—For purposes of this chapter—

"(1) IN GENERAL.—The severance tax adjustment with respect to any barrel of crude oil shall be the amount by which—

"(A) any severance tax imposed with respect to such barrel, exceeds

"(B) the severance tax which would have been imposed if the barrel had been valued at its adjusted base price.

"(2) SEVERANCE TAX DEFINED.—For purposes of this subsection, the term 'severance tax' means a tax—

"(A) imposed by a State with respect to the extraction of oil, and

"(B) determined on the basis of the gross value of the extracted oil.

"(3) LIMITATIONS.—

"(A) 15 PERCENT LIMITATION.—A severance tax shall not be taken into account to the extent that the rate thereof exceeds 15 percent.

"(B) INCREASES AFTER MARCH 31, 1979, MUST APPLY EQUALLY.—The amount of the severance tax taken into account under paragraph (1) shall not exceed the amount which would have been imposed under a State severance tax in effect on March 31, 1979, unless such excess is attributable to an increase in the rate of the severance tax (or to the imposition of a severance tax) which applies equally to all portions of the gross value of each barrel of oil subject to such tax.

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"(d) ALASKAN OIL FROM SADLEROCHIT RESERVOIR.—For purposes of this chapter—

"(1) IN GENERAL.—In the case of Sadlerochit oil—

"(A) ADJUSTED BASE PRICE INCREASED BY TAPS ADJUSTMENT.—The adjusted base price for any calendar quarter (determined without regard to this subsection) shall be increased by the TAPS adjustment (if any) for such quarter provided by paragraph (2).

"(B) REMOVAL PRICE DETERMINED ON MONTHLY BASIS.—The removal price of such oil removed during any calendar month shall be the average of the producer's removal prices for such month.

"(2) TAPS ADJUSTMENT.—

"(A) IN GENERAL.—The TAPS adjustment for any calendar quarter is the excess (if any) of—

"(i) $6.26 over

"(ii) the TAPS tariff for the preceding calendar quarter.

"(B) TAPS TARIFF.—For purposes of subparagraph (A), the TAPS tariff for the preceding calendar quarter is the average per barrel amount paid for all transportation (ending in such quarter) of crude oil through the TAPS.

"(C) TAPS DEFINED.—For purposes of this paragraph, the term 'TAPS' means the Trans-Alaska Pipeline System.

"(3) SADLEROCHIT OIL DEFINED.—The term 'Sadlerochit oil' means crude oil produced from the Sadlerochit reservoir in the Prudhoe Bay oilfield.

"(e) SPECIAL RULES FOR POST-1978 TRANSFERS OF PROPERTY.—In the case of a transfer after 1978 of any portion of a property, for purposes of this chapter (including the application of the June 1979 energy regulations for purposes of this chapter), after such transfer crude oil produced from any portion of such property shall not constitute oil from a stripper well property, newly discovered oil, or heavy oil, if such oil would not be so classified if the property had not been transferred.

"(f) ADJUSTMENT OF REMOVAL PRICE.—In determining the removal price of oil from a property in the case of any transaction, the Secretary may adjust the removal price to reflect clearly the fair market value of oil removed.

"(g) NO EXEMPTIONS FROM TAX.—No taxable crude oil, and no producer of such crude oil, shall be exempt from the tax imposed by this chapter except to the extent provided in this chapter or in any provision of law enacted after the date of the enactment of this chapter which grants a specific exemption, by reference to this chapter, from the tax imposed by this chapter.

"(h) CROSS REFERENCE.—

"For the holder of the economic interest in the case of a production payment, see section 636.

"SEC. 4997. RECORDS AND INFORMATION; REGULATIONS. 26 USC 4997.

"(a) RECORDS AND INFORMATION.—Each taxpayer liable for tax under section 4986, each partnership, trust, or estate producing domestic crude oil, each purchaser of domestic crude oil, and each operator of a well from which domestic crude oil was produced, shall keep such records, make such returns, and furnish such information (to the Secretary and to other persons having an interest in the oil) with respect to such oil as the Secretary may by regulations prescribe.

"(b) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this chapter, including such changes in the application of the energy regulations for purposes of this chapter as may be necessary or appropriate to carry out such purposes.

26 USC 4998. "SEC. 4998. CROSS REFERENCES.

"(1) For additions to the tax and additional amount for failure to file tax return or to pay tax, see section 6651.

"(2) For additions to the tax and additional amounts for failure to file certain information returns, registration statements, etc., see section 6652.

"(3) For additions to the tax and additional amounts for negligence and fraud, see section 6653.

"(4) For additions to the tax and additional amounts for failure to make deposit of taxes, see section 6656.

"(5) For additions to the tax and additional amounts for failure to collect and pay over tax, or attempt to evade or defeat tax, see section 6672.

"(6) For criminal penalties for attempt to evade or defeat tax, willful failure to collect or pay over tax, willful failure to file return, supply information, or pay tax, and for fraud and false statements, see sections 7201, 7202, 7203, and 7206.

"(7) For criminal penalties for failure to furnish certain information regarding windfall profit tax on domestic crude oil, see section 7241."

(2) CLERICAL AMENDMENT.—The table of chapters for subtitle D is amended by adding at the end thereof the following new item:

"CHAPTER 45. Windfall profit tax on domestic crude oil."

(b) DEDUCTIBILITY OF WINDFALL PROFIT TAX.—The first sentence of 26 USC 164. section 164(a) (relating to deduction for taxes) is amended by inserting after paragraph (4) the following new paragraph:

Ante, p. 230. "(5) The windfall profit tax imposed by section 4986."

(c) TIME FOR FILING RETURN OF WINDFALL PROFIT TAX; DEPOSITARY REQUIREMENTS.—

(1) TIME FOR FILING RETURN OF WINDFALL PROFIT TAX.—

(A) Part V of subchapter A of chapter 61 (relating to time for filing returns and other documents) is amended by adding at the end thereof the following new section:

26 USC 6076. "SEC. 6076. TIME FOR FILING RETURN OF WINDFALL PROFIT TAX.

"(a) GENERAL RULE.—Except in the case of a return required by *Ante*, p. 244. regulations prescribed under section 4995(a)(5), each return—

Ante, p. 230. "(1) of the tax imposed by section 4986 (relating to windfall profit tax) for any taxable period (within the meaning of section 4996(b)(7)), or

"(2) by a person required under section 4995(a) to withhold the windfall profit tax for any taxable period,

shall be filed not later than the last day of the second month following the close of the taxable period.

"(b) CROSS REFERENCE.—

"For depositary requirements applicable to the tax imposed by section 4986, see section 4995(b)."

(B) The table of sections for such part V is amended by adding at the end thereof the following new item:

"Sec. 6076. Time for filing return of windfall profit tax."

26 USC 6302. (2) CROSS REFERENCE.—Subsection (d) of section 6302 is amended to read as follows:

"(d) CROSS REFERENCES.—

"(1) For treatment of earned income advance amounts as payment of withholding and FICA taxes, see section 3507(d).
"(2) For depositary requirements applicable to the windfall profit tax imposed by section 4986, see section 4995(b)."

(3) TECHNICAL AMENDMENT.—Section 7512 (relating to separate accounting for certain collected taxes, etc.) is amended— 26 USC 7512.

(A) by striking out "or by chapter 33" in subsections (a) and (b) and inserting in lieu thereof ", by chapter 33, or by section 4986", and

(B) by striking out "or chapter 33" in subsections (b) and (c) and inserting in lieu thereof ", chapter 33, or section 4986".

(d) CERTAIN INFORMATION REQUIRED TO BE FURNISHED.—

(1) GENERAL RULE.—Subpart B of part III of subchapter A of chapter 61 (relating to information concerning transactions with other persons) is amended by adding at the end thereof the following new section:

"SEC. 6050C. INFORMATION REGARDING WINDFALL PROFIT TAX ON DOMESTIC CRUDE OIL. 26 USC 6050C.

"(a) CERTIFICATION FURNISHED BY OPERATOR.—Under regulations prescribed by the Secretary, the operator of a property from which domestic crude oil was produced shall certify (at such time and in such manner as the Secretary shall by regulations prescribe) to the purchaser—

"(1) the adjusted base price (within the meaning of section 4989) with respect to such crude oil, *Ante*, p. 233.

"(2) the tier and category of such crude oil for purposes of the tax imposed by section 4986, *Ante*, p. 230.

"(3) if any certification is furnished to the operator by the producer with respect to whether such oil is exempt oil or independent producer oil, a copy of such certification,

"(4) the amount of such crude oil, and

"(5) such other information as the Secretary by regulations may require.

"(b) AGREEMENT BETWEEN OPERATOR AND PURCHASER.—The Secretary may by regulations provide that, if the operator and purchaser agree thereto, the operator shall be relieved of the duty of furnishing some or all of the information required under subsection (a).

"(c) SPECIAL RULE FOR OIL NOT SUBJECT TO WITHHOLDING.—If the tax imposed by section 4986 with respect to any oil for which withholding is not required under section 4995(a)— *Ante*, p. 244.

"(1) subsections (a) and (b) shall be applied by substituting 'producer' for 'purchaser', and

"(2) paragraph (3) of subsection (a) shall not apply.

"(d) CROSS REFERENCES.—

"(1) For additions to tax for failure to furnish information required under this section, see section 6652(b).
"(2) For penalty for willful failure to supply information required under this section, see section 7241."

(2) TECHNICAL AND CONFORMING AMENDMENTS.—

(A) Section 6652(b) is amended— 26 USC 6652.

(i) by striking out "or section 6050A" and inserting in lieu thereof the following: ", section 6050A", and

(ii) by inserting ", or section 6050C (relating to information regarding windfall profit tax on crude oil)" after "fishing boat operators)".

(B) The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by adding at the end thereof the following new item:

"Sec. 6050C. Information regarding windfall profit tax on domestic crude oil."

(e) CRIMINAL PENALTY FOR FAILURE TO FURNISH CERTAIN INFORMATION.—

(1) IN GENERAL.—Part II of subchapter A of chapter 75 (relating to penalties applicable to certain taxes) is amended by adding at the end thereof the following new section:

26 USC 7241.

"SEC. 7241. WILLFUL FAILURE TO FURNISH CERTAIN INFORMATION REGARDING WINDFALL PROFIT TAX ON DOMESTIC CRUDE OIL.

Ante, p. 251.

"Any person who is required under section 6050C (or regulations thereunder) to furnish any information or certification to any other person and who willfully fails to furnish such information or certification at the time or times required by law or regulations, shall, in addition to other penalties provided by law, be guilty of a misdemeanor and upon conviction thereof, shall be fined not more than $10,000, or imprisoned not more than 1 year, or both, together with the costs of prosecution."

(2) CLERICAL AMENDMENT.—The table of sections for such part II is amended by adding at the end thereof the following new item:

"Sec. 7241. Willful failure to furnish certain information regarding windfall profit tax on domestic crude oil."

(f) DEFICIENCY PROCEDURES.—

(1) The following provisions are each amended by striking out "or 44" each place it appears and inserting in lieu thereof "44, or 45":

26 USC 6211. (A) section 6211(a),
(B) section 6211(b)(2),
26 USC 6212. (C) section 6212(a),
26 USC 6213. (D) section 6213(a),
(E) section 6213(f),
26 USC 6214. (F) section 6214(c),
(G) section 6214(d),
26 USC 6161. (H) section 6161(b)(1),
26 USC 6344. (I) section 6344(a)(1), and
26 USC 7422. (J) section 7422(e).

26 USC 6211. (2) Subsection (a) of section 6211 is amended by striking out "and 44" and inserting in lieu thereof "44, and 45".

(3) Subsection (b) of section 6211 is amended by adding at the end thereof the following new paragraphs:

Ante, p. 244. "(5) The amount withheld under section 4995(a) from amounts payable to any producer for crude oil removed during any taxable period (as defined in section 4996(b)(7)) which is not otherwise shown on a return by such producer shall be treated as tax shown by the producer on a return for the taxable period.

Ante, p. 247.

"(6) Any liability to pay amounts required to be withheld under section 4995(a) shall not be treated as a tax imposed by chapter 45."

Ante, p. 230.

26 USC 6212. (4) Paragraph (1) of section 6212(b) is amended—

(A) by striking out "or chapter 44" and inserting in lieu thereof "chapter 44, or chapter 45",

(B) by striking out "chapter 44, and this chapter" and inserting in lieu thereof "chapter 44, chapter 45, and this chapter", and

(C) by striking out "TAXES IMPOSED BY CHAPTER 42" in the paragraph heading and inserting in lieu thereof "CERTAIN EXCISE TAXES".

(5) Paragraph (1) of section 6212(c) is amended— 26 USC 6212.
(A) by striking out "or of chapter 42 tax" and inserting in lieu thereof "of chapter 42 tax", and
(B) by inserting ", or of chapter 45 tax for the same taxable period" after "to which such petition relates".
(6)(A) Subsection (a) of section 6512 is amended— 26 USC 6512.
(i) by striking out "chapter 41, 42, 43, or 44 taxes" and inserting in lieu thereof "certain excise taxes",
(ii) by striking out "or of tax imposed by chapter 41" and inserting in lieu thereof "of tax imposed by chapter 41", and
(iii) by inserting ", or of tax imposed by chapter 45 for the same taxable period" after "to which such petition relates".
(B) Paragraph (1) of section 6512(b) is amended—
(i) by striking out "or of tax imposed by chapter 41" and inserting in lieu thereof "of tax imposed by chapter 41", and
(ii) by inserting ", or of tax imposed by chapter 45 for the same taxable period" after "to which such petition relates".
(7) The subsection heading for subsection (c) of section 6601 is amended by striking out "CHAPTER 41, 42, 43, OR 44 TAX" and inserting in lieu thereof "CERTAIN EXCISE TAX". 26 USC 6601.
(8) Subsection (a) of section 6653 is amended— 26 USC 6653.
(A) by striking out "or by chapter 12" and inserting in lieu thereof ", by chapter 12",
(B) by striking out "is due" and inserting in lieu thereof ", or by chapter 45 (relating to windfall profit tax) is due", and
(C) by striking out "OR GIFT" in the subsection heading and inserting in lieu thereof ", GIFT, OR WINDFALL PROFIT".
(9) Subsection (a) of section 6862 is amended by striking out "certain excise taxes" and inserting in lieu thereof "the excise taxes imposed by chapters 41, 42, 43, 44, and 45". 26 USC 6862.

(g) SPECIAL RULES FOR STATUTE OF LIMITATIONS.—
(1) ASSESSMENT.—Section 6501 (relating to limitations on assessment and collection) is amended by adding at the end thereof the following new subsection: 26 USC 6501.

"(q) SPECIAL RULES FOR WINDFALL PROFIT TAX.—
"(1) OIL SUBJECT TO WITHHOLDING.—
"(A) IN GENERAL.—In the case of any oil to which section 4995(a) applies and with respect to which no return is required, the return referred to in this section shall be the return (of the person liable for the tax imposed by section 4986) of the taxes imposed by subtitle A for the taxable year in which the removal year ends. *Ante*, p. 230.
"(B) REMOVAL YEAR.—For purposes of subparagraph (A), the term 'removal year' means the calendar year in which the oil is removed from the premises.
"(2) EXTENSION OF LIABILITY ATTRIBUTABLE TO DOE RECLASSIFICATION.—
"(A) IN GENERAL.—In the case of the tax imposed by chapter 45, if a Department of Energy change becomes final, the period for assessing any deficiency attributable to such change shall not expire before the date which is 1 year after the date on which such change becomes final. *Ante*, p. 230.
"(B) DEPARTMENT OF ENERGY CHANGE.—For purposes of subparagraph (A) and section 6511(h)(2), the term 'Department of Energy change' means any change by the Department of Energy in the classification under the June 1979 energy regulations (as defined in section 4996(b)(8)(C)) of a property or of domestic crude oil from a property. *Post*, p. 254.

"(3) PARTNERSHIP ITEMS OF FEDERALLY REGISTERED PARTNERSHIPS.—Under regulations prescribed by the Secretary, rules similar to the rules of subsection (o) shall apply to the tax imposed by section 4986."

Ante, p. 230.

26 USC 6511.

(2) REFUND.—Section 6511 (relating to limitations on credit or refund) is amended by redesignating subsection (h) as (i) and by inserting after subsection (g) the following new subsection:

"(h) SPECIAL RULES FOR WINDFALL PROFIT TAXES.—

"(1) OIL SUBJECT TO WITHHOLDING.—In the case of any oil to which section 4995(a) applies and with respect to which no return is required, the return referred to in subsection (a) shall be the return (of the person liable for the tax imposed by section 4986) of the taxes imposed by subtitle A for the taxable year in which the removal year (as defined in section 6501(q)(1)(B)) ends.

Ante, p. 253.

"(2) SPECIAL RULE FOR DOE RECLASSIFICATION.—In the case of any tax imposed by chapter 45, if a Department of Energy change (as defined in section 6501(q)(2)(B)) becomes final, the period for filing a claim for credit or refund for any overpayment attributable to such change shall not expire before the date which is 1 year after the date on which such change becomes final.

Ante, p. 230.

"(3) PARTNERSHIP ITEMS OF FEDERALLY REGISTERED PARTNERSHIPS.—Under regulations prescribed by the Secretary, rules similar to the rules of subsection (g) shall apply to the tax imposed by section 4986."

(h) INTEREST ON OVERPAYMENTS.—Section 6611 (relating to interest on overpayment) is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

26 USC 6611.

"(h) SPECIAL RULE FOR WINDFALL PROFIT TAX.—

"(1) IN GENERAL.—If any overpayment of tax imposed by section 4986 is refunded within 45 days after—

"(A) the last date (determined without regard to any extension of time for filing the return) prescribed for filing the return of the tax imposed by section 4986 for the taxable period with respect to which the overpayment was made, or

"(B) if such return is filed after such last date, the date on which the return is filed,

no interest shall be allowed under subsection (a) on such overpayment.

"(2) SPECIAL RULE WHERE NO RETURN IS REQUIRED.—In the case of any oil for which no return of the tax imposed by section 4986 is required, the return referred to in paragraph (1) shall be the return of the tax imposed by subtitle A for the taxable year of the producer in which the removal year (with respect to which the overpayment was made) ends. For purposes of the preceding sentence, the term 'removal year' means the calendar year in which the oil is removed from the premises."

26 USC 4986 note.

(i) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to periods after February 29, 1980.

(2) TRANSITIONAL RULES.—For the period ending June 30, 1980, the Secretary of the Treasury or his delegate shall prescribe rules relating to the administration of chapter 45 of the Internal Revenue Code of 1954. To the extent provided in such rules, such rules shall supplement or supplant for such period the administrative provisions contained in chapter 45 of such Code (or in so much of subtitle F of such Code as relates to such chapter 45).

26 USC 6001.

SEC. 102. ALLOCATION OF NET REVENUES FROM WINDFALL PROFIT TAX TO CERTAIN USES. 31 USC 555.

(a) SEPARATE ACCOUNT IN TREASURY ESTABLISHED.—The net revenues from the windfall profit tax for each fiscal year beginning after September 30, 1980, and before October 1, 1990, are hereby allocated for accounting purposes to a separate account in the Treasury to be known as the Windfall Profit Tax Account (hereinafter in this section referred to as the "Account").

(b) SPECIFIED USES FOR AMOUNTS IN THE ACCOUNT.—

(1) BASIC NET REVENUES.—In the case of the amount of basic net revenues allocated to the Account for any fiscal year, there shall be a further allocation to subaccounts for the following uses:

Use for	Percent
Income tax reductions	60
Low-income assistance	25
Energy and transportation programs	15

(2) ADDITIONAL NET REVENUES.—In the case of the amount of additional net revenues allocated to the Account for any fiscal year, there shall be a further allocation to subaccounts for the following uses:

Use for	Percent
Income tax reductions	66⅔
Low-income assistance	33⅓

(3) SPECIAL RULE FOR LOW-INCOME ASSISTANCE FOR 1982 AND SUBSEQUENT YEARS.—In the case of any amount allocated under paragraph (1) to the subaccount for low-income assistance for the fiscal year beginning October 1, 1981, or any subsequent fiscal year—

(A) 50 percent shall be allocated to a program to assist AFDC and SSI recipients under the Social Security Act, and 42 USC 1305.

(B) 50 percent shall be allocated to a program of emergency energy assistance.

(c) NET REVENUES DEFINED.—For purposes of this section—

(1) IN GENERAL.—The term "net revenues of the windfall profit tax" means, for any fiscal year, the amount which the Secretary estimates to be the excess of—

(A) the gross revenues from the tax imposed by section 4986 for the fiscal year, over *Ante*, p. 230.

(B) the sum of—

(i) the refunds of and other adjustments to such tax for such fiscal year, plus

(ii) the decrease in the income taxes imposed by chapter 1 resulting from the tax imposed by section 4986. 26 USC 1 *et seq.*

For purposes of subparagraph (A), there shall not be taken into account any revenue attributable to an economic interest in crude oil held by the United States.

(2) BASIC NET REVENUES.—The term "basic net revenues" means the estimated net revenues which would result for any period under the assumptions for such period which were made in enacting the Crude Oil Windfall Profit Tax Act of 1980. *Ante*, p. 229.

(3) ADDITIONAL NET REVENUES.—The term "additional net revenues" means for any period the net revenues in excess of the basic net revenues for such period.

(d) PRESIDENT TO PROPOSE ALLOCATION OF NET REVENUES.—

(1) IN GENERAL.—The President shall propose for each fiscal year to which this section applies an allocation of the net revenues among the uses set forth in subsection (b).

(2) TIME AND MANNER FOR PROPOSING.—Except for the fiscal year beginning October 1, 1980, the proposal for each fiscal year shall be contained in the annual budget for such fiscal year. The proposal for the fiscal year beginning October 1, 1980, shall be submitted by the President within 90 days after the date of the enactment of this Act.

Reports to Congress.

(e) REPORTS.—The Secretary of the Treasury shall report to the Congress not later than January 1 of 1982 and of each calendar year thereafter before 1992—

(1) the net revenues derived from the windfall profit tax for the fiscal year ending on September 30 of the preceding year, and

(2) the actual disposition for such fiscal year of such revenues among the uses specified in subsection (b).

26 USC 4986 note.

SEC. 103. STUDY OF EFFECTS OF DECONTROL OF OIL PRICES AND OF WINDFALL PROFIT TAX.

Report to Congress.

(a) GENERAL RULE.—The President shall, not later than January 1, 1983, submit to the Congress a report on the effect of decontrol of oil prices and the windfall profit tax on—

(1) domestic oil production,
(2) foreign oil imports,
(3) profits of the oil industry,
(4) inflation,
(5) employment,
(6) economic growth,
(7) Federal revenues, and
(8) national security.

(b) REPORT TO INCLUDE RECOMMENDATIONS.—The report required under subsection (a) shall include such legislative recommendations as the President determines to be advisable.

TITLE II—ENERGY CONSERVATION AND PRODUCTION INCENTIVES

PART I—RESIDENTIAL ENERGY CREDIT

SEC. 201. GENERAL PROVISIONS RELATING TO CREDIT.

26 USC 44C.

(a) JOINT OWNERSHIP OF ENERGY ITEMS.—Section 44C(d) (relating to special rules) is amended by redesignating paragraph (4) as paragraph (5) and by inserting after paragraph (3) the following new paragraph:

"(4) JOINT OWNERSHIP OF ENERGY ITEMS.—

"(A) IN GENERAL.—Any expenditure otherwise qualifying as an energy conservation expenditure or a renewable energy source expenditure shall not be treated as failing to so qualify merely because such expenditure was made with respect to 2 or more dwelling units.

"(B) LIMITS APPLIED SEPARATELY.—In the case of any expenditure described in subparagraph (A), the amount of the credit allowable under subsection (a) shall (subject to paragraph (1)) be computed separately with respect to the amount of the expenditure made by each individual."

(b) SECRETARIAL AUTHORITY.—

26 USC 44C.

(1) IN GENERAL.—Section 44C(c) (relating to definitions and special rules) is amended by adding at the end thereof the following new paragraph:

"(9) LIMITATIONS ON SECRETARIAL AUTHORITY.—

"(A) IN GENERAL.—The Secretary shall not specify any item under paragraph (4)(A)(viii) or any form of renewable energy under paragraph (5)(A)(i) unless the Secretary determines that—

"(i) there will be a reduction in oil or natural gas consumption as a result of such specification, and such reduction is sufficient to justify any resulting decrease in Federal revenues,

"(ii) such specification will not result in an increased use of any item which is known to be, or reasonably suspected to be, environmentally hazardous or a threat to public health or safety, and

"(iii) available Federal subsidies do not make such specification unnecessary or inappropriate (in the light of the most advantageous allocation of economic resources).

"(B) FACTORS TAKEN INTO ACCOUNT.—In making any determination under subparagraph (A)(i), the Secretary (after consultation with the Secretary of Energy)—

"(i) shall make an estimate of the amount by which the specification will reduce oil and natural gas consumption, and

"(ii) shall determine whether such specification compares favorably, on the basis of the reduction in oil and natural gas consumption per dollar of cost to the Federal Government (including revenue loss), with other Federal programs in existence or being proposed.

"(C) FACTORS TAKEN INTO ACCOUNT IN MAKING ESTIMATES.—In making any estimate under subparagraph (B)(i), the Secretary shall take into account (among other factors)—

"(i) the extent to which the use of any item will be increased as a result of the specification,

"(ii) whether sufficient capacity is available to increase production to meet any increase in demand caused by such specification,

"(iii) the amount of oil and natural gas used directly or indirectly in the manufacture of such item and other items necessary for its use, and

"(iv) the estimated useful life of such item."

(2) PERIOD FOR SPECIFYING ITEMS.—Paragraph (6) of section 44C(c) (relating to definitions and special rules) is amended by adding at the end thereof the following new subparagraphs:

"(C) ACTION ON REQUESTS.—

"(i) IN GENERAL.—The Secretary shall make a final determination with respect to any request filed under subparagraph (A)(ii) for specifying an item under paragraph (4)(A)(viii) or for specifying a form of renewable energy under paragraph (5)(A)(i) within 1 year after the filing of the request, together with any information required to be filed with such request under subparagraph (A)(ii).

"(ii) REPORTS.—Each month the Secretary shall publish a report of any request which has been denied

during the preceding month and the reasons for the denial.

"(D) EFFECTIVE DATE.—

"(i) IN GENERAL.—In the case of any item or energy source specified under paragraph (4)(A)(viii) or (5)(A)(i), the credit allowed by subsection (a) shall apply with respect to expenditures which are made on or after the date on which final notice of such specification is published in the Federal Register.

"(ii) EXPENDITURES TAKEN INTO ACCOUNT IN FOLLOWING TAXABLE YEARS.—The Secretary may prescribe by regulations that expenditures made on or after the date referred to in clause (i) and before the close of the taxable year in which such date occurs shall be taken into account in the following taxable year."

SEC. 202. RENEWABLE ENERGY SOURCE EXPENDITURES.

26 USC 44C.

(a) AMOUNT OF CREDIT.—Paragraph (2) of section 44C(b) (relating to qualified renewable energy source expenditures) is amended to read as follows:

"(2) RENEWABLE ENERGY SOURCE.—In the case of any dwelling unit, the qualified renewable energy source expenditures are 40 percent of so much of the renewable energy source expenditures made by the taxpayer during the taxable year with respect to such unit as does not exceed $10,000."

(b) SOLAR ELECTRIC ENERGY.—Clause (i) of section 44C(c)(5)(A) (defining renewable energy source property) is amended by striking out "providing hot water" and inserting in lieu thereof "providing hot water or electricity".

(c) COSTS OF DRILLING GEOTHERMAL WELL.—Subparagraph (B) of section 44C(c)(2) (relating to renewable energy source expenditure) is amended to read as follows:

"(B) CERTAIN LABOR AND OTHER COSTS INCLUDED.—The term 'renewable energy source expenditure' includes—

"(i) expenditures for labor costs properly allocable to the onsite preparation, assembly, or original installation of renewable energy source property, and

"(ii) expenditures for an onsite well drilled for any geothermal deposit (as defined in section 613(e)(3)), but only if the taxpayer has not elected under section 263(c) to deduct any portion of such expenditures."

26 USC 613.
26 USC 263.

(d) SOLAR PANELS INSTALLED ON ROOFS.—Paragraph (2) of section 44C(c) (relating to renewable energy source expenditure) is amended by adding at the end thereof the following new subparagraph:

"(D) CERTAIN SOLAR PANELS.—No solar panel installed as a roof (or portion thereof) shall fail to be treated as renewable energy source property solely because it constitutes a structural component of the dwelling on which it is installed."

26 USC 44C note.

(e) EFFECTIVE DATES.—

(1) SUBSECTION (a).—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1979.

(2) SUBSECTIONS (b), (c), AND (d).—The amendments made by subsections (b), (c), and (d) shall apply to expenditures made after December 31, 1979, in taxable years ending after such date.

SEC. 203. PROVISIONS TO PREVENT DOUBLE BENEFITS.

(a) CREDIT TO BE REDUCED WHERE CERTAIN FINANCING IS USED.—

(1) IN GENERAL.—Section 44C(c) (relating to definitions and special rules) is amended by adding at the end thereof the following new paragraph: 26 USC 44C.

"(10) PROPERTY FINANCED BY SUBSIDIZED ENERGY FINANCING.—

"(A) REDUCTION OF QUALIFIED EXPENDITURES.—For purposes of determining the amount of energy conservation or renewable energy source expenditures made by any individual with respect to any dwelling unit, there shall not be taken into account expenditures which are made from subsidized energy financing.

"(B) DOLLAR LIMITS REDUCED.—Paragraph (1) or (2) of subsection (b) (whichever is appropriate) shall be applied with respect to such dwelling unit for any taxable year of such taxpayer by reducing each dollar amount contained in such paragraph (reduced as provided in subsection (b)(3)) by an amount equal to the sum of—

"(i) the amount of the expenditures which were made by the taxpayer during such taxable year or any prior taxable year with respect to such dwelling unit and which were not taken into account by reason of subparagraph (A), and

"(ii) the amount of any Federal, State, or local grant received by the taxpayer during such taxable year or any prior taxable year which was used to make energy conservation or renewable energy source expenditures with respect to the dwelling unit and which was not included in the gross income of such taxpayer.

"(C) SUBSIDIZED ENERGY FINANCING.—For purposes of subparagraph (A), the term 'subsidized energy financing' means financing provided under a Federal, State, or local program a principal purpose of which is to provide subsidized financing for projects designed to conserve or produce energy."

(b) RETURN REQUIREMENT.—

(1) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61 (relating to information returns) is amended by adding at the end thereof the following new section:

"SEC. 6050D. RETURNS RELATING TO ENERGY GRANTS AND FINANCING. 26 USC 6050D.

"(a) IN GENERAL.—Every person who administers a Federal, State, or local program a principal purpose of which is to provide subsidized financing or grants for projects to conserve or produce energy shall, to the extent required under regulations prescribed by the Secretary, make a return setting forth the name and address of each taxpayer receiving financing or a grant under such program and the aggregate amount so received by such individual.

"(b) DEFINITION OF PERSON.—For purposes of this section, the term 'person' means the officer or employee having control of the program, or the person appropriately designated for purposes of this section."

(2) CONFORMING AMENDMENT.—The table of sections for such subpart B is amended by adding at the end thereof the following new item:

"Sec. 6050D. Returns relating to energy grants and financing."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1980, but only with respect to financing or grants made after such date. 26 USC 44C note.

PART II—BUSINESS ENERGY INVESTMENT CREDITS

SEC. 221. CHANGES IN AMOUNT AND PERIOD OF APPLICATION OF ENERGY PERCENTAGE.

26 USC 46.

(a) IN GENERAL.—Subparagraph (C) of section 46(a)(2) (relating to energy percentage) is amended to read as follows:

"(C) ENERGY PERCENTAGE.—For purposes of this paragraph—

"(i) IN GENERAL.—The energy percentage shall be determined in accordance with the following table:

"Column A—Description	Column B—Percentage	Column C—Period	
In the case of:	The energy percentage is:	For the period:	
		Beginning on:	And ending on:
I. GENERAL RULE.—Property not described in any of the following provisions of this column	10 percent	Oct. 1, 1978	Dec. 31, 1982.
II. SOLAR, WIND, OR GEOTHERMAL PROPERTY.—Property described in section 48(l)(2)(A)(ii) or 48(l)(3)(A)(viii)	A. 10 percent	Oct. 1, 1978	Dec. 31, 1979.
	B. 15 percent	Jan. 1, 1980	Dec. 31, 1985.
III. OCEAN THERMAL PROPERTY.—Property described in section 48(l)(3)(A)(ix)	15 percent	Jan. 1, 1980	Dec. 31, 1985.
IV. QUALIFIED HYDROELECTRIC GENERATING PROPERTY.—Property described in section 48(l)(2)(A)(vii)	11 percent	Jan. 1, 1980	Dec. 31, 1985.
V. QUALIFIED INTERCITY BUSES.—Property described in section 48(l)(2)(A)(ix)	10 percent	Jan. 1, 1980	Dec. 31, 1985.
VI. BIOMASS PROPERTY.—Property described in section 48(l)(15)	10 percent	Oct. 1, 1978	Dec. 31, 1985.

"(ii) PERIODS FOR WHICH PERCENTAGE NOT SPECIFIED.—In the case of any energy property, the energy percentage shall be zero for any period for which an energy percentage is not specified for such property under clause (i) (as modified by clauses (iii) and (iv)).

"(iii) LONGER PERIOD FOR CERTAIN LONG-TERM PROJECTS.—For the purpose of applying the energy percentage contained in subclause (I) of clause (i) with respect to property which is a part of a project with a normal construction period of 2 years or more (within the meaning of section 46(d)(2)(A)(i)), 'December 31, 1990' shall be substituted for 'December 31, 1982' if—

"(I) before January 1, 1983, the taxpayer has completed all engineering studies in connection with the commencement of the construction of the project, and has applied for all environmental and construction permits required under Federal, State, or local law in connection with the commencement of the construction of the project, and

"(II) before January 1, 1986, the taxpayer has entered into binding contracts for the acquisition,

construction, reconstruction, or erection of equipment specially designed for the project and the aggregate cost to the taxpayer of that equipment is at least 50 percent of the reasonably estimated cost for all such equipment which is to be placed in service as part of the project upon its completion.

"(iv) LONGER PERIOD FOR CERTAIN HYDROELECTRIC GENERATING PROPERTY.—If an application has been docketed by the Federal Energy Regulatory Commission before January 1, 1986, with respect to the installation of any qualified hydroelectric generating property, for purposes of applying the energy percentage contained in subclause (IV) of clause (i) with respect to such property, 'December 31, 1988' shall be substituted for 'December 31, 1985'."

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 48(l) (relating to treatment as section 38 property) is amended to read as follows: 26 USC 48.

"(1) TREATMENT AS SECTION 38 PROPERTY.—For any period for which the energy percentage determined under section 46(a)(2)(C) for any energy property is greater than zero— 26 USC 46.

"(A) such energy property shall be treated as meeting the requirements of paragraph (1) of subsection (a), and

"(B) paragraph (3) of subsection (a) shall not apply to such property."

(2) Paragraph (11) of section 48(l) (relating to special rule for property financed by industrial development bonds) is amended by striking out "5 percent" and inserting in lieu thereof "one-half of the energy percentage determined under section 46(a)(2)(C)". *Post*, p. 266.

SEC. 222. CHANGES IN ENERGY PROPERTY ITEM DESCRIPTIONS.

(a) IN GENERAL.—Subparagraph (A) of section 48(l)(2) (defining energy property) is amended—

(1) by striking out "or" at the end of clause (v), and

(2) by adding at the end thereof the following new clauses:

"(vii) qualified hydroelectric generating property,

"(viii) cogeneration equipment, or

"(ix) qualified intercity buses,".

(b) ALTERNATIVE ENERGY PROPERTY.—Subparagraph (A) of section 48(l)(3) (defining alternative energy property) is amended—

(1) by striking out "(other than coke or coke gas)" in clause (iii),

(2) by striking out clause (v) and inserting in lieu thereof the following:

"(v) equipment to convert—

"(I) coal (including lignite), or any nonmarketable substance derived therefrom, into a substitute for a petroleum or natural gas derived feedstock for the manufacture of chemicals or other products, or

"(II) coal (including lignite), or any substance derived therefrom, into methanol, ammonia, or a hydroprocessed coal liquid or solid,",

(3) by striking out "and" at the end of clause (vii),

(4) by striking out the period at the end of clause (viii) and inserting in lieu thereof ", and", and

(5) by adding at the end thereof the following new clause:

"(ix) equipment, placed in service at either of 2 locations designated by the Secretary after consultation

with the Secretary of Energy, which converts ocean thermal energy to usable energy."

26 USC 48. (c) SOLAR OR WIND ENERGY PROPERTY.—Paragraph (4) of section 48(l) (defining solar or wind energy property) is amended—

(1) by striking out "or" at the end of subparagraph (A),

(2) by striking out the period at the end of subparagraph (B) and inserting in lieu thereof ", or", and

(3) by adding at the end thereof the following new subparagraph:

"(C) to provide solar process heat."

(d) SPECIALLY DEFINED ENERGY PROPERTY.—

(1) ALUMINA ELECTROLYTIC CELLS.—Paragraph (5) of section 48(l) (defining specially defined energy property) is amended—

(A) by striking out "or" at the end of subparagraph (K), and

(B) by redesignating subparagraph (L) as subparagraph (M) and by inserting after subparagraph (K) the following new subparagraph:

"(L) modifications to alumina electrolytic cells, or".

(2) STANDARDS FOR SECRETARIAL DISCRETION.—Paragraph (5) of section 48(l) is amended by adding at the end thereof the following new sentence: "The Secretary shall not specify any property under subparagraph (M) unless he determines that such specification meets the requirements of paragraph (9) of section 44C(c) for specification of items under section 44C(c)(4)(A)(viii)."

Ante, p. 257.

(e) QUALIFIED HYDROELECTRIC GENERATING PROPERTY.—

(1) IN GENERAL.—Subsection (l) of section 48 (relating to energy property) is amended by adding at the end thereof the following new paragraph:

"(13) QUALIFIED HYDROELECTRIC GENERATING PROPERTY.—

"(A) IN GENERAL.—The term 'qualified hydroelectric generating property' means property installed at a qualified hydroelectric site which is—

"(i) equipment for increased capacity to generate electricity by water (up to, but not including, the electrical transmission stage), and

"(ii) structures for housing such generating equipment, fish passageways, and dam rehabilitation property, required by reason of the installation of equipment described in clause (i).

"(B) QUALIFIED HYDROELECTRIC SITE.—The term 'qualified hydroelectric site' means any site—

"(i) at which—

"(I) there is a dam the construction of which was completed before October 18, 1979, and which was not significantly enlarged after such date, or

"(II) electricity is to be generated without any dam or other impoundment of water, and

"(ii) the installed capacity of which is less than 125 megawatts.

"(C) LIMITATION ON CREDIT WHEN INSTALLED CAPACITY EXCEEDS 25 MEGAWATTS.—For purposes of applying the energy percentage to any qualified hydroelectric generating property placed in service in connection with a site the installed capacity of which exceeds 25 megawatts, the amount taken into account as qualified investment shall not exceed the amount which (but for this subparagraph) would be the qualified investment multiplied by a fraction—

"(i) the numerator of which is 25 reduced by 1 for each whole megawatt by which such installed capacity exceeds 100 megawatts, and

"(ii) the denominator of which is the number of megawatts of such installed capacity but not in excess of 100.

"(D) DAM REHABILITATION PROPERTY.—For purposes of this paragraph, the term 'dam rehabilitation property' means any amount properly chargeable to capital account for property (or additions or improvements to property) in connection with the rehabilitation of a dam.

"(E) INSTALLED CAPACITY.—The term 'installed capacity' means, with respect to any site, the installed capacity of all electrical generating equipment placed in service at such site. Such term includes the capacity of equipment installed during the 3 taxable years following the taxable year in which the equipment is placed in service."

(2) REGULAR INVESTMENT CREDIT TO APPLY TO FISH PASSAGEWAYS.—Subparagraph (D) of section 46(a)(2) (relating to special rule for certain energy property) is amended by adding at the end thereof the following new sentence: "In the case of any qualified hydroelectric generating property which is a fish passageway, the preceding sentence shall not apply to any period after 1979 for which the energy percentage for such property is greater than zero." 26 USC 46.

(f) COGENERATION PROPERTY.—Subsection (l) of section 48 (relating to energy property) is amended by adding at the end thereof the following new paragraph: 26 USC 48.

"(14) COGENERATION EQUIPMENT.—

"(A) IN GENERAL.—The term 'cogeneration equipment' means property which is an integral part of a system for using the same fuel to produce both qualified energy and electricity at an industrial or commercial facility at which, as of January 1, 1980, electricity or qualified energy was produced.

"(B) ONLY COGENERATION INCREASES TAKEN INTO ACCOUNT.—The term 'cogeneration equipment' includes property only to the extent that such property increases the capacity of the system to produce qualified energy or electricity, whichever is the secondary energy product of the system.

"(C) LIMITATION ON USE OF OIL OR GAS.—The term 'cogeneration equipment' does not include any property which is part of a system if—

"(i) such system uses oil or natural gas (or a product of oil or natural gas) as a fuel for any purpose other than—

"(I) start-up,

"(II) flame control, or

"(III) back-up, or

"(ii) more than 20 percent (determined on a Btu basis) of the fuel for such system for any taxable year consists of oil or natural gas (or a product of oil or natural gas).

"(D) QUALIFIED ENERGY.—The term 'qualified energy' means steam, heat, or other forms of useful energy (other than electric energy) to be used for industrial, commercial, or space-heating purposes (other than in the production of electricity).

"(E) INDUSTRIAL INCLUDES PURIFICATION AND DESALINIZATION OF WATER.—The term 'industrial' includes the purification of water and the desalinization of water."

(g) BIOMASS PROPERTY.—

26 USC 48.

(1) IN GENERAL.—Subsection (l) of section 48 (relating to energy property) is amended by adding at the end thereof the following new paragraph:

"(15) BIOMASS PROPERTY.—

"(A) IN GENERAL.—The term 'biomass property' means—

"(i) any property described in clause (i), (ii), or (iii) of paragraph (3)(A), as modified by the last sentence of paragraph (3)(A) and by subparagraph (B) of this paragraph, and

"(ii) any equipment described in so much of clause (vi) or (vii) of paragraph (3)(A) as relates to property described in clause (i) of this subparagraph.

"(B) MODIFICATIONS.—For purposes of subparagraph (A)—

"(i) the term 'alternate substance' has the meaning given to such term by paragraph (3)(B), except that such term does not include any inorganic substance and does not include coal (including lignite) or any product of such coal, and

"(ii) clause (iii) of paragraph (3)(A) shall be applied by substituting 'a qualified fuel' for 'a synthetic liquid, gaseous, or solid fuel'.

"(C) QUALIFIED FUEL.—For purposes of subparagraph (B), the term 'qualified fuel' means—

"(i) any synthetic solid fuel, and

"(ii) alcohol for fuel purposes if the primary source of energy for the facility producing the alcohol is not oil or natural gas or a product of oil or natural gas."

Ante, p. 261.

(2) STORAGE OF FUEL DERIVED FROM GARBAGE.—Subparagraph (A) of section 48(l)(3) (defining alternative energy property) is amended by adding at the end thereof the following new sentence:

"The equipment described in clause (vii) includes equipment used for the storage of fuel derived from garbage at the site at which such fuel was produced from garbage."

(h) QUALIFIED INTERCITY BUSES.—Subsection (l) of section 48 (relating to energy property) is amended by adding at the end thereof the following new paragraph:

"(16) QUALIFIED INTERCITY BUSES.—

"(A) IN GENERAL.—Paragraph (2)(A)(ix) shall apply only with respect to the qualified investment in qualified intercity buses of a taxpayer—

"(i) which is a common carrier regulated by the Interstate Commerce Commission or an appropriate State agency (as determined by the Secretary), and

"(ii) which is engaged in the trade or business of furnishing intercity passenger transportation or intercity charter service by bus.

"(B) QUALIFIED INTERCITY BUS.—The term 'qualified intercity bus' means an automobile bus—

"(i) the chassis and body of which is exempt under section 4063(a)(6) from the tax imposed by section 4061(a),

26 USC 4063.
26 USC 4061.

"(ii) which has—

"(I) a seating capacity of more than 35 passengers (in addition to the driver), and

"(II) 1 or more baggage compartments, separated from the passenger area, with a capacity of at least 200 cubic feet, and

"(iii) which is used predominantly by the taxpayer in the trade or business of furnishing intercity passenger transportation or intercity charter service.

"(C) OPERATING CAPACITY MUST INCREASE.—Under regulations prescribed by the Secretary—

"(i) IN GENERAL.—The amount of qualified investment taken into account under paragraph (2)(A)(ix) for any taxable year shall not exceed the amount of the qualified investment which is attributable to an increase in the taxpayer's total operating seating capacity for the taxable year over such capacity as of the close of the preceding taxable year.

"(ii) SPECIAL RULES.—The regulations prescribed under this subparagraph—

"(I) shall provide that only buses used predominantly on a full-time basis in the trade or business of furnishing intercity passenger or intercity charter service shall be taken into account in determining the taxpayer's total operating seating capacity, and

"(II) shall provide rules treating related taxpayers as 1 person."

(i) TECHNICAL AMENDMENTS.—

(1) PUBLIC UTILITY PROPERTY.—

(A) Paragraph (3) of section 48(l) is amended by striking out subparagraph (B) and by redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively. 26 USC 48.

(B) Subsection (l) of section 48 is amended by adding at the end thereof the following new paragraph:

"(17) EXCLUSION FOR PUBLIC UTILITY PROPERTY.—The terms 'alternative energy property', 'biomass property', 'solar or wind energy property', 'recycling equipment', and 'cogeneration property' do not include property which is public utility property (within the meaning of section 46(f)(5))." 26 USC 46.

(2) OCEAN THERMAL PROPERTY.—Section 48(a)(2)(B) (relating to property used outside the United States) is amended—

(A) by striking out "and" at the end of clause (ix),

(B) by striking out the period at the end of clause (x) and inserting in lieu thereof ", and", and

(C) by inserting immediately after clause (x) the following new clause:

"(xi) any property described in subsection (l)(3)(A)(ix) which is owned by a United States person and which is used in international or territorial waters to generate energy for use in the United States."

(3) POLLUTION CONTROL EQUIPMENT.—Subparagraph (C) of section 48(l)(3) (as redesignated by paragraph (1)) is amended by adding at the end thereof the following new sentence: *Supra.*

"For purposes of the preceding sentence, in the case of property which is alternative energy property solely by reason of the amendments made by section 222(b) of the Crude Oil Windfall Profit Tax Act of 1980, 'January 1, 1980' shall be substituted for 'October 1, 1978'." *Ante*, p. 261.

26 USC 48 note.

(j) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to periods after December 31, 1979, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1954.

26 USC 48.

(2) ALUMINA ELECTROLYTIC CELLS.—The amendments made by subsection (d)(1) shall apply to periods after September 30, 1978, under rules similar to the rules of section 48(m) of such Code.

SEC. 223. OTHER CHANGES WITH RESPECT TO THE INVESTMENT CREDIT FOR INVESTMENT IN ENERGY PROPERTY.

(a) BOILERS FUELED BY PETROLEUM COKE OR PETROLEUM PITCH.—

(1) IN GENERAL.—Paragraph (10) of section 48(a) (relating to boilers fueled by oil or gas) is amended by adding at the end thereof the following new sentence: "For purposes of the preceding sentence, the term 'petroleum or petroleum products' does not include petroleum coke or petroleum pitch."

26 USC 48 note.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to periods after December 31, 1979, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1954.

(b) REPEAL OF REFUNDABLE CREDIT FOR SOLAR OR WIND PROPERTY.—

26 USC 46.

(1) IN GENERAL.—Paragraph (10) of section 46(a) (relating to special rules in case of energy property) is amended—

(A) in subparagraph (A)—

(i) by inserting "and" at the end of clause (i),

(ii) by striking out "(other than solar or wind energy property), and" and inserting in lieu thereof a period in clause (ii), and

(iii) by striking out clause (iii);

(B) by striking out "OTHER THAN SOLAR OR WIND ENERGY PROPERTY" in the heading of subparagraph (B); and

(C) by striking out subparagraph (C).

26 USC 6401.

(2) CONFORMING AMENDMENT.—Section 6401 (relating to amounts treated as overpayments) is amended by striking out subsection (d).

26 USC 46 note.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to qualified investment for taxable years beginning after December 31, 1979.

(c) CREDIT TO BE REDUCED WHERE CERTAIN FINANCING IS USED.—

Ante, p. 261.

(1) IN GENERAL.—Paragraph (11) of section 48(l) (relating to special rule for property financed by industrial development bonds), as amended by section 221(b)(2), is amended to read as follows:

"(11) SPECIAL RULE FOR PROPERTY FINANCED BY SUBSIDIZED ENERGY FINANCING OR INDUSTRIAL DEVELOPMENT BONDS.—

"(A) REDUCTION OF QUALIFIED INVESTMENT.—For purposes of applying the energy percentage to any property, if such property is financed in whole or in part by—

"(i) subsidized energy financing, or

26 USC 103.

"(ii) the proceeds of an industrial development bond (within the meaning of section 103(b)(2)) the interest on which is exempt from tax under section 103,

the amount taken into account as qualified investment shall not exceed the amount which (but for this subparagraph) would be the qualified investment multiplied by the fraction determined under subparagraph (B).

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"(B) DETERMINATION OF FRACTION.—For purposes of subparagraph (A), the fraction determined under this subparagraph is 1 reduced by a fraction—

"(i) the numerator of which is that portion of the qualified investment in the property which is allocable to such financing or proceeds, and

"(ii) the denominator of which is the qualified investment in the property.

"(C) SUBSIDIZED ENERGY FINANCING.—For purposes of subparagraph (A), the term 'subsidized energy financing' means financing provided under a Federal, State, or local program a principal purpose of which is to provide subsidized financing for projects designed to conserve or produce energy."

(2) EFFECTIVE DATES.— 26 USC 48 note.

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendment made by paragraph (1) shall apply to periods after December 31, 1982, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1954. 26 USC 48.

(B) EARLIER APPLICATION FOR CERTAIN PROPERTY.—In the case of property which is—

(i) qualified hydroelectric generating property (described in section 48(l)(2)(A)(vii) of such Code),

(ii) cogeneration equipment (described in section 48(l)(2)(A)(viii) of such Code),

(iii) qualified intercity buses (described in section 48(l)(2)(A)(ix) of such Code),

(iv) ocean thermal property (described in section 48(l)(3)(A)(ix) of such Code), or

(v) expanded energy credit property,

the amendment made by paragraph (1) shall apply to periods after December 31, 1979, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1954.

(C) EXPANDED ENERGY CREDIT PROPERTY.—For purposes of subparagraph (B), the term "expanded energy credit property" means—

(i) property to which section 48(l)(3)(A) of such Code applies because of the amendments made by paragraphs (1) and (2) of section 222(b), *Ante*, p. 261.

(ii) property described in section 48(l)(4)(C) of such Code (relating to solar process heat), *Ante*, p. 262.

(iii) property described in section 48(l)(5)(L) of such Code (relating to alumina electrolytic cells), and *Ante*, p. 262.

(iv) property described in the last sentence of section 48(l)(3)(A) of such Code (relating to storage equipment for refuse-derived fuel). *Ante*, p. 264.

(D) FINANCING TAKEN INTO ACCOUNT.—For the purpose of applying the provisions of section 48(l)(11) of such Code in the case of property financed in whole or in part by subsidized energy financing (within the meaning of section 48(l)(11)(C) of such Code), no financing made before January 1, 1980, shall be taken into account. The preceding sentence shall not apply to financing provided from the proceeds of any tax-exempt industrial development bond (within the meaning of section 103(b)(2) of such Code). *Ante*, p. 266. 26 USC 103.

PART III—PRODUCTION OF FUEL FROM NONCONVENTIONAL SOURCES; ALCOHOL FUELS

SEC. 231. PRODUCTION TAX CREDIT.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to credits against tax) is amended by inserting after section 44C the following new section:

26 USC 44D.

"SEC. 44D. CREDIT FOR PRODUCING FUEL FROM A NONCONVENTIONAL SOURCE.

"(a) ALLOWANCE OF CREDIT.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to—

"(1) $3, multiplied by

"(2) the barrel-of-oil equivalent of qualified fuels—

"(A) sold by the taxpayer to an unrelated person during the taxable year, and

"(B) the production of which is attributable to the taxpayer.

"(b) LIMITATIONS AND ADJUSTMENTS.—

"(1) PHASEOUT OF CREDIT.—The amount of the credit allowable under subsection (a) shall be reduced by an amount which bears the same ratio to the amount of the credit (determined without regard to this paragraph) as—

"(A) the amount by which the reference price for the calendar year in which the taxable year begins exceeds $23.50, bears to

"(B) $6.

"(2) CREDIT AND PHASEOUT ADJUSTMENT BASED ON INFLATION.—The $3 amount in subsection (a) and the $23.50 and $6 amounts in paragraph (1) shall each be adjusted by multiplying such amount by the inflation adjustment factor for the calendar year in which a taxable year begins. In the case of gas from a tight formation, the $3 amount in subsection (a) shall not be adjusted.

"(3) CREDIT REDUCED FOR GRANTS, TAX-EXEMPT BONDS, AND SUBSIDIZED ENERGY FINANCING.—

"(A) IN GENERAL.—The amount of the credit allowable under subsection (a) with respect to any project for any taxable year (determined after the application of paragraphs (1) and (2)) shall be reduced by the amount which is the product of the amount so determined for such year and a fraction—

"(i) the numerator of which is the sum, for the taxable year and all prior taxable years, of—

"(I) grants provided by the United States, a State, or a political subdivision of a State for use in connection with the project,

"(II) proceeds of any issue of State or local government obligations used to provide financing for the project the interest on which is exempt from tax under section 103, and

26 USC 103.

"(III) the aggregate amount of subsidized energy financing (within the meaning of section 48(l)(11)(C)) provided in connection with the project, and

Ante, p. 266.

"(ii) the denominator of which is the aggregate amount of additions to the capital account for the project for the taxable year and all prior taxable years.

"(B) AMOUNTS DETERMINED AT CLOSE OF YEAR.—The amounts under subparagraph (A) for any taxable year shall be determined as of the close of the taxable year.

"(4) CREDIT REDUCED FOR ENERGY CREDIT.—The amount allowable as a credit under subsection (a) with respect to any project for any taxable year (determined after the application of paragraphs (1), (2), and (3)) shall be reduced by the excess of—

"(A) the aggregate amount allowed under section 38 for the taxable year or any prior taxable year by reason of the energy percentage with respect to property used in the project, over 26 USC 38.

"(B) the aggregate amount recaptured with respect to the amount described in subparagraph (A)—

"(i) under section 47 for the taxable year or any prior taxable year, or 26 USC 47.

"(ii) under this paragraph for any prior taxable year.

The amount recaptured under section 47 with respect to any property shall be appropriately reduced to take into account any reduction in the credit allowed by this section by reason of the preceding sentence.

"(5) APPLICATION WITH OTHER CREDITS.—The credit allowed by subsection (a) for a taxable year shall not exceed the tax imposed by this chapter for such taxable year, reduced by the sum of the credits allowable under a section of this subpart having a lower number or letter designation than this section, other than the credits allowable by sections 31, 39, and 43. For purposes of the preceding sentence, the term 'tax imposed by this chapter' shall not include any tax treated as not imposed by this chapter under the last sentence of section 53(a). 26 USC 31, 39, 43. 26 USC 53.

"(c) DEFINITION OF QUALIFIED FUELS.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified fuels' means—

"(A) oil produced from shale and tar sands,

"(B) gas produced from—

"(i) geopressured brine, Devonian shale, coal seams, or a tight formation, or

"(ii) biomass,

"(C) liquid, gaseous, or solid synthetic fuels produced from coal (including lignite), including such fuels when used as feedstocks,

"(D) qualifying processed wood fuels, and

"(E) steam produced from solid agricultural byproducts (not including timber byproducts).

"(2) GAS FROM GEOPRESSURED BRINE, ETC.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the determination of whether any gas is produced from geopressured brine, Devonian shale, coal seams, or a tight formation shall be made in accordance with section 503 of the Natural Gas Policy Act of 1978. 15 USC 3413.

"(B) SPECIAL RULES FOR GAS FROM TIGHT FORMATIONS.—The term 'gas produced from a tight formation' shall only include—

"(i) gas the price of which is regulated by the United States, and

"(ii) gas for which the maximum lawful price applicable under the Natural Gas Policy Act of 1978 is at least 150 percent of the then applicable price under section 103 of such Act. 15 USC 3301 note. 15 USC 3313.

26 USC 48.

"(3) BIOMASS.—The term 'biomass' means any organic material which is an alternate substance (as defined in section 48(l)(3)(B)) other than coal (including lignite) or any product of such coal.

"(4) QUALIFYING PROCESSED WOOD FUEL.—

"(A) IN GENERAL.—The term 'qualifying processed wood fuel' means any processed solid wood fuel (other than charcoal, fireplace products, or a product used for ornamental or recreational purposes) which has a Btu content per unit of volume or weight, determined without regard to any non-wood elements, which is at least 40 percent greater per unit of volume or weight than the Btu content of the wood from which it is produced (determined immediately before the processing).

"(B) ELECTION.—A taxpayer shall elect, at such time and in such manner as the Secretary by regulations may prescribe, as to whether Btu content per unit shall be determined for purposes of this paragraph on a volume or weight basis. Any such election—

"(i) shall apply to all production from a facility; and

"(ii) shall be effective for the taxable year with respect to which it is made and for all subsequent taxable years and, once made, may be revoked only with the consent of the Secretary.

"(5) AGRICULTURAL BYPRODUCT STEAM.—Steam produced from solid agricultural byproducts which is used by the taxpayer in his trade or business shall be treated as having been sold by the taxpayer to an unrelated person on the date on which it is used.

"(d) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) ONLY PRODUCTION WITHIN THE UNITED STATES TAKEN INTO ACCOUNT.—Sales shall be taken into account under this section only with respect to qualified fuels the production of which is within—

26 USC 638.

"(A) the United States (within the meaning of section 638(1)), or

"(B) a possession of the United States (within the meaning of section 638(2)).

"(2) COMPUTATION OF INFLATION ADJUSTMENT FACTOR AND REFERENCE PRICE.—

Publication in Federal Register.

"(A) IN GENERAL.—The Secretary shall, not later than April 1 of each calendar year, determine and publish in the Federal Register the inflation adjustment factor and the reference price for the preceding calendar year in accordance with this paragraph.

"(B) INFLATION ADJUSTMENT FACTOR.—The term 'inflation adjustment factor' means, with respect to a calendar year, a fraction the numerator of which is the GNP implicit price deflator for the calendar year and the denominator of which is the GNP implicit price deflator for calendar year 1979. The term 'GNP implicit price deflator' means the first revision of the implicit price deflator for the gross national product as computed and published by the Department of Commerce.

"(C) REFERENCE PRICE.—The term 'reference price' means with respect to a calendar year the Secretary's estimate of the annual average wellhead price per barrel for all domestic crude oil the price of which is not subject to regulation by the United States.

"(3) PRODUCTION ATTRIBUTABLE TO THE TAXPAYER.—In the case of a property or facility in which more than 1 person has an interest, except to the extent provided in regulations prescribed by the Secretary, production from the property or facility (as the case may be) shall be allocated among such persons in proportion to their respective interests in the gross sales from such property or facility.

"(4) SPECIAL RULES APPLICABLE TO GAS FROM GEOPRESSURED BRINE, DEVONIAN SHALE, COAL SEAMS, OR A TIGHT FORMATION.—

"(A) CREDIT ALLOWED ONLY FOR NEW PRODUCTION.—The amount of the credit allowable under subsection (a) shall be determined without regard to any production attributable to a property from which gas from Devonian shale, coal seams, geopressured brine, or a tight formation was produced in marketable quantities before January 1, 1980.

"(B) REFERENCE PRICE AND APPLICATION OF PHASEOUT FOR DEVONIAN SHALE.—

"(i) REFERENCE PRICE FOR DEVONIAN SHALE.—For purposes of this section, the term 'reference price' for gas from Devonian shale sold during calendar years 1980, 1981, and 1982 shall be the average wellhead price per thousand cubic feet for such year of high cost natural gas (as defined in section 107(c) (2), (3), and (4) of the Natural Gas Policy Act of 1978 and determined under section 503 of that Act) as estimated by the Secretary after consultation with the Federal Energy Regulatory Commission. 15 USC 3317. 15 USC 3413.

"(ii) DIFFERENT PHASEOUT TO APPLY FOR 1980, 1981, AND 1982.—For purposes of applying paragraphs (1) and (2) of subsection (b) with respect to sales during calendar years 1980, 1981, and 1982 of gas from Devonian shale, '$4.05' shall be substituted for '$23.50' and '$1.03' shall be substituted for '$6.00'.

"(5) PHASEOUT DOES NOT APPLY FOR FIRST 3 YEARS OF PRODUCTION FROM FACILITY PRODUCING QUALIFYING PROCESSED WOOD OR STEAM FROM SOLID AGRICULTURAL BYPRODUCTS.—In the case of a facility for the production of—

"(A) qualifying processed wood fuel,

or

"(B) steam from solid agricultural byproducts,

paragraph (1) of subsection (b) shall not apply with respect to the amount of the credit allowable under subsection (a) for fuels sold during the 3-year period beginning on the date the facility is placed in service.

"(6) BARREL-OF-OIL EQUIVALENT.—The term 'barrel-of-oil equivalent' with respect to any fuel means that amount of such fuel which has a Btu content of 5.8 million; except that in the case of qualified fuels described in subparagraph (C), (D), or (E) of subsection (c)(1), the Btu content shall be determined without regard to any material from a source not described in such subparagraph.

"(7) BARREL DEFINED.—The term 'barrel' means 42 United States gallons.

"(8) RELATED PERSONS.—Persons shall be treated as related to each other if such persons would be treated as a single employer under the regulations prescribed under section 52(b). 26 USC 52.

26 USC 1371.

"(9) PASS-THROUGH IN THE CASE OF SUBCHAPTER S CORPORATIONS, ETC.—Under regulations prescribed by the Secretary, rules similar to the rules of subsections (d) and (e) of section 52 shall apply.

26 USC 52.

"(e) CREDIT NOT ALLOWABLE IF TAXPAYER MAKES ELECTION UNDER NATURAL GAS POLICY ACT OF 1978.—If the taxpayer makes an election under section 107(d) of the Natural Gas Policy Act of 1978 to have subsections (a) and (b) of section 107 of that Act, and subtitle B of title I of that Act, apply with respect to gas described in subsection (c)(1)(B)(i) produced from any well on a property, then the credit allowable by subsection (a) shall not be allowed with respect to any gas produced on that property.

15 USC 3301 note.
15 USC 3317.
15 USC 3331.

"(f) APPLICATION OF SECTION.—

"(1) IN GENERAL.—Except as provided in paragraph (2), this section shall apply with respect to qualified fuels—

"(A) which are—

"(i) produced from a well drilled after December 31, 1979, and before January 1, 1990, or

"(ii) produced in a facility placed in service after December 31, 1979, and before January 1, 1990, and

"(B) which are sold after December 3, 1979, and before January 1, 2001.

"(2) SPECIAL RULES APPLICABLE TO QUALIFIED PROCESSED WOOD AND SOLID AGRICULTURAL BYPRODUCT STEAM.—

"(A) CREDIT ALLOWED ONLY FOR CERTAIN PRODUCTION.—In the case of qualifying processed wood fuel and steam from solid agricultural byproducts, this section shall apply only with respect to—

"(i) qualifying processed wood fuel produced in facilities placed in service after December 3, 1979, and before January 1, 1982, which is sold before the later of—

"(I) October 1, 1983, or

"(II) the date which is 3 years after the date on which the facility is placed in service; and

"(ii) steam produced in facilities placed in service after December 31, 1979, from solid agricultural byproducts which is sold before January 1, 1985.

"(B) EXPANDED PRODUCTION OF STEAM TREATED AS NEW FACILITY PRODUCTION.—For purposes of this subsection and subsection (d)(5), in the case of a facility for the production of steam from solid agricultural byproducts which was placed in service before January 1, 1980, any production of steam attributable to an expansion of the capacity of the facility to produce such steam through placing additional or replacement equipment in service after December 31, 1979, shall be treated as if it were produced by a facility placed in service on the date on which such equipment is placed in service."

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 44C the following new item:

"Sec. 44D. Credit for producing fuel from a nonconventional source."

26 USC 6096.

(2) Subsection (b) of section 6096 (relating to designation of income tax payments to Presidential Election Campaign Fund) is amended by striking out "and 44C" and inserting in lieu thereof "44C, and 44D".

26 USC 44D note.

(c) EFFECTIVE DATES.—The amendments made by this section shall apply to taxable years ending after December 31, 1979.

SEC. 232. ALCOHOL FUELS.

(a) EXTENSION OF EXEMPTION THROUGH 1992.—

(1) GASOLINE.—Subsection (c) of section 4081 (relating to gasoline mixed with alcohol) is amended by adding at the end thereof the following new paragraph: 26 USC 4081.

"(4) TERMINATION.—Paragraph (1) shall not apply to any sale after December 31, 1992."

(2) SPECIAL FUELS.—Subsection (k) of section 4041 (relating to fuels containing alcohol) is amended by adding at the end thereof the following new paragraph: 26 USC 4041.

"(3) TERMINATION.—Paragraph (1) shall not apply to any sale or use after December 31, 1992."

(3) TECHNICAL AMENDMENT.—Subsections (a)(2) and (b)(2) of the Energy Tax Act of 1978 are each amended by striking out ", and before October 1, 1984". 26 USC 4041 note, 4081 note.

(b) CREDIT AGAINST INCOME TAX.—

(1) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to credits allowed) is amended by inserting before section 45 the following new section:

"SEC. 44E. ALCOHOL USED AS FUEL. 26 USC 44E.

"(a) GENERAL RULE.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of—

"(1) the alcohol mixture credit, plus

"(2) the alcohol credit.

"(b) DEFINITION OF ALCOHOL MIXTURE CREDIT AND ALCOHOL CREDIT.—For purposes of this section—

"(1) ALCOHOL MIXTURE CREDIT.—

"(A) IN GENERAL.—The alcohol mixture credit of any taxpayer for any taxable year is 40 cents for each gallon of alcohol used by the taxpayer in the production of a qualified mixture.

"(B) QUALIFIED MIXTURE.—The term 'qualified mixture' means a mixture of alcohol and gasoline or of alcohol and a special fuel which—

"(i) is sold by the taxpayer producing such mixture to any person for use as a fuel, or

"(ii) is used as a fuel by the taxpayer producing such mixture.

"(C) SALE OR USE MUST BE IN TRADE OR BUSINESS, ETC.—Alcohol used in the production of a qualified mixture shall be taken into account—

"(i) only if the sale or use described in subparagraph (B) is in a trade or business of the taxpayer, and

"(ii) for the taxable year in which such sale or use occurs.

"(D) CASUAL OFF-FARM PRODUCTION NOT ELIGIBLE.—No credit shall be allowed under this section with respect to any casual off-farm production of a qualified mixture.

"(2) ALCOHOL CREDIT.—

"(A) IN GENERAL.—The alcohol credit of any taxpayer for any taxable year is 40 cents for each gallon of alcohol which is not in a mixture with gasoline or a special fuel (other than any denaturant) and which during the taxable year—

"(i) is used by the taxpayer as a fuel in a trade or business, or

"(ii) is sold by the taxpayer at retail to a person and placed in the fuel tank of such person's vehicle.

"(B) USER CREDIT NOT TO APPLY TO ALCOHOL SOLD AT RETAIL.—No credit shall be allowed under subparagraph (A)(i) with respect to any alcohol which was sold in a retail sale described in subparagraph (A)(ii).

"(3) SMALLER CREDIT FOR LOWER PROOF ALCOHOL.—In the case of any alcohol with a proof which is at least 150 but less than 190, paragraphs (1)(A) and (2)(A) shall be applied by substituting "30 cents" for "40 cents".

"(4) ADDING OF DENATURANTS NOT TREATED AS MIXTURE.—The adding of any denaturant to alcohol shall not be treated as the production of a mixture.

"(c) COORDINATION WITH EXEMPTION FROM EXCISE TAX.—The amount of the credit allowable under this section with respect to any alcohol shall, under regulations prescribed by the Secretary, be properly reduced to take into account any benefit provided with respect to such alcohol solely by reason of the application of section 4041(k) or 4081(c).

Ante, p. 273.

"(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) ALCOHOL DEFINED.—

"(A) IN GENERAL.—The term 'alcohol' includes methanol and ethanol but does not include—

"(i) alcohol produced from petroleum, natural gas, or coal, or

"(ii) alcohol with a proof of less than 150.

"(B) DETERMINATION OF PROOF.—The determination of the proof of any alcohol shall be made without regard to any added denaturants.

"(2) SPECIAL FUEL DEFINED.—The term 'special fuel' includes any liquid fuel (other than gasoline) which is suitable for use in an internal combustion engine.

"(3) MIXTURE OR ALCOHOL NOT USED AS A FUEL, ETC.—

"(A) MIXTURES.—If—

"(i) any credit was allowable under this section with respect to alcohol used in the production of any qualified mixture, and

"(ii) any person—

"(I) separates the alcohol from the mixture, or

"(II) without separation, uses the mixture other than as a fuel,

then there is hereby imposed on such person a tax equal to 40 cents a gallon (30 cents in the case of alcohol with a proof less than 190) for each gallon of alcohol in such mixture.

"(B) ALCOHOL.—If—

"(i) any credit was allowable under this section with respect to the retail sale of any alcohol, and

"(ii) any person mixes such alcohol or uses such alcohol other than as a fuel,

then there is hereby imposed on such person a tax equal to 40 cents a gallon (30 cents in the case of alcohol with a proof less than 190) for each gallon of such alcohol.

"(C) APPLICABLE LAWS.—All provisions of law, including penalties, shall, insofar as applicable and not inconsistent with this section, apply in respect of any tax imposed under subparagraph (A) or (B) as if such tax were imposed by section 4081 and not by this chapter.

26 USC 4081.

"(4) VOLUME OF ALCOHOL.—For purposes of determining—

"(A) under subsection (a) the number of gallons of alcohol with respect to which a credit is allowable under subsection (a), or

"(B) under section 4041(k) or 4081(c) the percentage of any mixture which consists of alcohol,

Ante, p. 273.

the volume of alcohol shall include the volume of any denaturant (including gasoline) which is added under any formulas approved by the Secretary to the extent that such denaturants do not exceed 5 percent of the volume of such alcohol (including denaturants).

"(5) PASS-THROUGH IN THE CASE OF SUBCHAPTER S CORPORATIONS, ETC.—Under regulations prescribed by the Secretary, rules similar to the rules of subsections (d) and (e) of section 52 shall apply.

26 USC 1371.

26 USC 52.

"(e) LIMITATION BASED ON AMOUNT OF TAX.—

"(1) IN GENERAL.—The amount of the credit allowed by this section for the taxable year shall not exceed the tax imposed by this chapter for the taxable year, reduced by the sum of the credits allowed under a section of this subpart having a lower number designation than this section, other than credits allowable by sections 31, 39, and 43. For purposes of the preceding sentence, the term 'tax imposed by this chapter' shall not include any tax treated as not imposed by this chapter under the last sentence of section 53(a).

26 USC 31, 39, 43.

26 USC 53.

"(2) CARRYOVER OF UNUSED CREDIT.—

"(A) IN GENERAL.—If the amount of the credit determined under subsection (a) for any taxable year exceeds the limitation provided by paragraph (1) for such taxable year (hereinafter in this paragraph referred to as the 'unused credit year'), such excess shall be an alcohol fuel credit carryover to each of the 7 taxable years following the unused credit year, and shall be added to the amount allowable as credit under subsection (a) for such years. The entire amount of the unused credit for an unused credit year shall be carried to the earliest of the 7 taxable years to which (by reason of the preceding sentence) such credit may be carried, and then to each of the other 6 taxable years to the extent that, because of the limitation contained in subparagraph (B), such unused credit may not be added for a prior taxable year to which such unused credit may be carried.

"(B) LIMITATION.—The amount of the unused credit which may be added under subparagraph (A) for any succeeding taxable year shall not exceed the amount by which the limitation provided by paragraph (1) for such succeeding taxable year exceeds the sum of—

"(i) the credit allowable under subsection (a) for such taxable year, and

"(ii) the amounts which, by reason of this paragraph, are added to the amount allowable for such taxable year and which are attributable to taxable years preceding the unused credit year.

"(f) TERMINATION.—

"(1) IN GENERAL.—This section shall not apply to any sale or use after December 31, 1992.

"(2) NO CARRYOVERS TO YEARS AFTER 1994.—No amount may be carried under subsection (e)(2) to any taxable year beginning after December 31, 1994."

(2) TECHNICAL AMENDMENTS RELATED TO CARRYOVER OF CREDIT.—

26 USC 55.

(A) Paragraph (3) of section 55(c) is amended by adding at the end thereof the following new sentence:

Ante, p. 273.

"In determining any carryover under section 44E(e)(2), a rule similar to the rule set forth in subparagraph (A) shall be treated as inserted in this paragraph before subparagraph (A), and the applications of subparagraphs (A), (B), and (C) shall be adjusted accordingly."

26 USC 381.

(B) Subsection (c) of section 381 (relating to items of the distributor or transferor corporation) is amended by adding at the end thereof the following new paragraph:

"(27) CREDIT UNDER SECTION 44E FOR ALCOHOL USED AS FUEL.—The acquiring corporation shall take into account (to the extent proper to carry out the purposes of this section and section 44E, and under such regulations as may be prescribed by the Secretary) the items required to be taken into account for purposes of section 44E in respect of the distributor or transferor corporation."

26 USC 383.

(C) Section 383 (relating to special limitations on unused investment credits, work incentive credits, new employee credits, foreign taxes, and capital losses), as in effect for taxable years beginning after June 30, 1982, is amended—

(i) by inserting "to any unused credit of the corporation under section 44E(e)(2)," after "section 53(c),", and

(ii) by striking out "NEW EMPLOYEE CREDITS" in the section heading and inserting in lieu thereof "NEW EMPLOYEE CREDITS, ALCOHOL FUEL CREDITS".

26 USC 1 note.

(D) Section 383 (as in effect on the day before the date of the enactment of the Tax Reform Act of 1976) is amended—

(i) by inserting "to any unused credit of the corporation which could otherwise be carried forward under section 44E(e)(2)," after "section 53(c),", and

(ii) by striking out "NEW EMPLOYEE CREDITS" in the section heading and inserting in lieu thereof "NEW EMPLOYEE CREDITS, ALCOHOL FUEL CREDITS".

(3) OTHER TECHNICAL AND CONFORMING AMENDMENTS.—

26 USC 4081.

(A) Paragraph (3) of section 4081(c) (defining alcohol) is amended by adding at the end thereof the following new sentence: "Such term does not include alcohol with a proof of less than 190 (determined without regard to any added denaturants)."

(B) The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting immediately after the item relating to section 44D the following new item:

"Sec. 44E. Alcohol used as fuel."

26 USC 6096.

(C) Section 6096(b) (relating to designation of income tax payments to Presidential Election Campaign Fund), as amended by section 231, is amended by striking out "and 44D" and inserting "44D, and 44E".

(c) CREDIT TO BE INCLUDED IN INCOME.—

(1) IN GENERAL.—Part II of subchapter B of chapter 1 (relating to items specifically included in gross income) is amended by adding at the end thereof the following new section:

"SEC. 86. ALCOHOL FUEL CREDIT. 26 USC 86.

"Gross income includes an amount equal to the amount of the credit allowable to the taxpayer under section 44E for the taxable year (determined without regard to subsection (e) thereof)." *Ante*, p. 273.

(2) TECHNICAL AMENDMENT.—Subparagraph (B) of section 55(b)(1) (defining alternative minimum taxable income) is amended by striking out "section 667" and inserting in lieu thereof "section 86 or 667". 26 USC 55.

(3) CONFORMING AMENDMENT.—The table of sections for such part II is amended by inserting at the end thereof the following new item:

"Sec. 86. Alcohol fuel credit."

(d) REFUND OF TAX ON GASOLINE USED TO PRODUCE CERTAIN ALCOHOL FUELS.—

(1) GENERAL RULE.—Section 6427 (relating to fuels not used for taxable purposes) is amended— 26 USC 6427.

(A) by redesignating subsections (f), (g), (h), (i), and (j) as subsections (g), (h), (i), (j), and (k), respectively; and

(B) by inserting after subsection (e) the following new subsection:

"(f) GASOLINE USED TO PRODUCE CERTAIN ALCOHOL FUELS.—

"(1) IN GENERAL.—Except as provided in subsection (i), if any gasoline on which tax is imposed by section 4081 is used by any person in producing a mixture described in section 4081(c) which is sold or used in such person's trade or business, the Secretary shall pay (without interest) to such person an amount equal to the aggregate amount of the tax imposed on such gasoline. The preceding sentence shall not apply with respect to any mixture sold or used after December 31, 1992. 26 USC 4081. *Ante*, pp. 273, 276. *Infra.*

"(2) COORDINATION WITH OTHER REPAYMENT PROVISIONS.—No amount shall be payable under subsection (d) or (e) of this section or under section 6420 or 6421 with respect to any gasoline with respect to which an amount is payable under paragraph (1)." 26 USC 6420, 6421.

(2) QUARTERLY REFUND ALLOWED WHERE $200 OR MORE IS PAYABLE.—

(A) Subparagraph (A) of section 6427(g)(2) (as redesignated by paragraph (1)) is amended by striking out "or" at the end of clause (i), by inserting "or" at the end of clause (ii), and by inserting after clause (ii) the following new clause: 26 USC 6427.

"(iii) $200 or more is payable under subsection (f),".

(B) Subparagraph (B) of section 6427(g)(2) (as redesignated by paragraph (1)) is amended to read as follows:

"(B) SPECIAL RULE.—If the requirements of clause (ii) or clause (iii) of subparagraph (A) are met by any person for any quarter but the requirements of subparagraph (A)(i) are not met by such person for such quarter, such person may file a claim under subparagraph (A) for such quarter only with respect to amounts referred to in the clause (or clauses) of subparagraph (A) the requirements of which are met by such person for such quarter."

(3) TREATMENT OF SUBSEQUENT SEPARATION.—Paragraph (2) of section 4081(c) (relating to later separation of gasoline) is amended by inserting "(or with respect to which a credit or payment was allowed or made by reason of section 6427(f)(1))" after "this subsection". 26 USC 4081.

(4) TECHNICAL AMENDMENTS.—

26 USC 39.

(A) Subsections (a)(4) and (b) of section 39 are each amended by striking out "6427(h)" and inserting in lieu thereof "6427(i)".

26 USC 6427.

(B) Subsections (a), (b)(1), (c), (d), and (e)(1) of section 6427 are each amended by striking out "(h)" and inserting in lieu thereof "(i)".

Ante, p. 277.

(C) Subsection (g)(1) of such section 6427 (as redesignated by paragraph (1)(A)) is amended by striking out "(a), (b), (c), (d), or (e)" and inserting in lieu thereof "(a), (b), (c), (d), (e), or (f)".

(D) Subsection (i)(2) of such section 6427 (as redesignated by paragraph (1)(A)) is amended by striking out "(f)(2)" and inserting in lieu thereof "(g)(2)".

26 USC 7210, 7603, 7604, 7605, 7609, 7610.

(E) Sections 7210, 7603, 7604(b), 7604(c)(2), 7605(a), 7609(c)(1), and 7610(c) are each amended by striking out "6427(g)(2)" each place it appears and inserting in lieu thereof "6427(h)(2)".

(e) EXEMPTION FROM DISTILLED SPIRITS RULES.—

(1) IN GENERAL.—Subchapter B of chapter 51 (relating to distilled spirits, wines, and beers) is amended by redesignating section 5181 as section 5182 and by inserting after section 5180 the following new section:

26 USC 5182.

26 USC 5181.

"SEC. 5181. DISTILLED SPIRITS FOR FUEL USE.

"(a) IN GENERAL.—

"(1) PURPOSES FOR WHICH PLANT MAY BE ESTABLISHED.—On such application and bond and in such manner as the Secretary may prescribe by regulation, a person may establish a distilled spirits plant solely for the purpose of—

"(A) producing, processing, and storing, and

"(B) using or distributing,

distilled spirits to be used exclusively for fuel use.

"(2) REGULATIONS.—In prescribing regulations under paragraph (1) and in carrying out the provisions of this section, the Secretary shall, to the greatest extent possible, take steps to—

"(A) expedite all applications;

"(B) establish a minimum bond; and

"(C) generally encourage and promote (through regulation or otherwise) the production of alcohol for fuel purposes.

"(b) AUTHORITY TO EXEMPT.—The Secretary may by regulation provide for the waiver of any provision of this chapter (other than this section or any provision requiring the payment of tax) for any distilled spirits plant described in subsection (a) if the Secretary finds it necessary to carry out the provisions of this section.

"(c) SPECIAL RULES FOR SMALL PLANT PRODUCTION.—

"(1) APPLICATIONS.—

"(A) IN GENERAL.—An application for an operating permit for an eligible distilled spirits plant shall be in such a form and manner, and contain such information, as the Secretary may by regulations prescribe; except that the Secretary shall, to the greatest extent possible, take steps to simplify the application so as to expedite the issuance of such permits.

"(B) RECEIPT OF APPLICATION.—Within 15 days of receipt of an application under subparagraph (A), the Secretary shall send a written notice of receipt to the applicant, together with a statement as to whether the application meets the requirements of subparagraph (A). If such a notice is not sent

and the applicant has a receipt indicating that the Secretary has received an application, paragraph (2) shall apply as if a written notice required by the preceding sentence, together with a statement that the application meets the requirements of subparagraph (A), had been sent on the 15th day after the date the Secretary received the application.

"(C) MULTIPLE APPLICATIONS.—If more than one application is submitted with respect to any eligible distilled spirits plant in any calendar quarter, the provisions of this section shall apply only to the first application submitted with respect to such plant during such quarter. For purposes of the preceding sentence, if a corrected or amended first application is filed, such application shall not be considered as a separate application, and the 15-day period referred to in subparagraph (A) shall commence with receipt of the corrected or amended application.

"(2) DETERMINATION.—

"(A) IN GENERAL.—In any case in which the Secretary under paragraph (1)(B) has notified an applicant of receipt of an application which meets the requirements of paragraph (1)(A), the Secretary shall make a determination as to whether such operating permit is to be issued, and shall notify the applicant of such determination, within 45 days of the date on which notice was sent under paragraph (1)(B).

"(B) FAILURE TO MAKE DETERMINATION.—If the Secretary has not notified an applicant within the time prescribed under subparagraph (A), the application shall be treated as approved.

"(C) REJECTION OF APPLICATION.—If the Secretary determines under subparagraph (A) that a permit should not be issued—

"(i) the Secretary shall include in the notice to the applicant of such determination under subparagraph (A) detailed reasons for such determination, and

"(ii) such determination shall not prejudice any further application for such operating permit.

"(3) BOND.—No bond shall be required for an eligible distilled spirits plant. For purposes of section 5212 and subsection (e)(2) of this section, the premises of an eligible distilled spirits plant shall be treated as bonded premises. 26 USC 5212.

"(4) ELIGIBLE DISTILLED SPIRITS PLANT.—The term 'eligible distilled spirits plant' means a plant which is used to produce distilled spirits exclusively for fuel use and the production from which does not exceed 10,000 proof gallons per year.

"(d) WITHDRAWAL FREE OF TAX.—Distilled spirits produced under this section may be withdrawn free of tax from the bonded premises and any premises which are not bonded by reason of subsection (c)(3)) of a distilled spirits plant exclusively for fuel use as provided in section 5214(a)(12). 26 USC 5214.

"(e) PROHIBITED WITHDRAWAL, USE, SALE, OR DISPOSITION.—

"(1) IN GENERAL.—Distilled spirits produced under this section shall not be withdrawn, used, sold, or disposed of for other than fuel use.

"(2) RENDERING UNFIT FOR USE.—For protection of the revenue and under such regulations as the Secretary may prescribe, distilled spirits produced under this section shall, before withdrawal from the bonded premises of a distilled spirits plant, be

rendered unfit for beverage use by the addition of substances which will not impair the quality of the spirits for fuel use.

"(f) DEFINITION OF DISTILLED SPIRITS.—For purposes of this section, the term 'distilled spirits' does not include distilled spirits produced from petroleum, natural gas, or coal".

(2) TECHNICAL AND CONFORMING AMENDMENTS.—

26 USC 5601.

(A) Section 5601(a) (relating to criminal penalties) is amended by adding the word "or" at the end of paragraph (14) and by inserting immediately after paragraph (14) the following new paragraph:

"(15) UNAUTHORIZED WITHDRAWAL, USE, SALE, OR DISTRIBUTION OF DISTILLED SPIRITS FOR FUEL USE.—Withdraws, uses, sells, or otherwise disposes of distilled spirits produced under section 5181 for other than fuel use;".

Ante, p. 278.

26 USC 5214.

(B) Section 5214(a) (relating to withdrawal of distilled spirits from bonded premises free of tax) is amended by striking out the period at the end of paragraph (11) and inserting in lieu thereof a semicolon and the word "or" and by adding at the end thereof the following new paragraph:

"(12) free of tax in the case of distilled spirits produced under section 5181."

Ante, p. 278.

26 USC 5004.

(C) Section 5004(a)(2)(B) (relating to lien for tax) is amended by striking out "or (11)," and inserting "(11), or (12),".

26 USC 5005.

(D) Section 5005(d) (relating to person liable for tax) is amended by striking out "or (11)," and inserting "(11), or (12),".

Repeal.
26 USC 4081 note.

(E) Section 221(d) of the Energy Tax Act of 1978 is repealed.

(F) The table of sections for subchapter B of chapter 51 is amended by striking out the item relating to section 5181 and by inserting after section 5180 the following new items:

"Sec. 5181. Distilled spirits for fuel use.
"Sec. 5182. Cross references."

Submittal to congressional committees.
26 USC 4041 note.

(f) STUDY OF IMPORTED ALCOHOL.—Within 180 days after the date of the enactment of this Act, the Secretary of the Treasury shall furnish to the Committee on Finance of the United States Senate and to the Committee on Ways and Means of the United States House of Representatives recommendations as to what methods, if any, may be used to limit the importing of alcohol into the United States for fuel purposes, including, but not limited to—

(1) denial of the exemption under sections 4081(c) and 4041(k) of the Internal Revenue Code of 1954 or of the credit under section 44E of such Code to fuels produced from imported alcohol,

Ante, pp. 273, 276, 277.

(2) import quotas and duties on such alcohol, and

(3) strict surveillance of such imports to monitor their effect on the domestic fuel alcohol industry.

26 USC 4041 note.
Submittal to Congress.

(g) REPORTS.—Subsection (c) of section 221 of the Energy Tax Act of 1978 is amended to read as follows:

"(c) REPORTS.—On April 1 of each year, beginning with April 1, 1981, and ending with April 1, 1992, the Secretary of Energy, in consultation with the Secretary of the Treasury and the Secretary of Transportation, shall submit to the Congress a report on the use of alcohol in fuel. The report shall include—

"(1) a description of the firms engaged in the alcohol fuel industry,

"(2) the amount of alcohol fuel sold in each State, and the amount of gasoline saved in each State by reason of the use of alcohol fuels,

"(3) the revenue loss resulting from the exemptions from tax for alcohol fuels under sections 4041(k) and 4081(c) of the Internal Revenue Code of 1954 and the credit allowable under section 44E of such Code and the impact of such revenue loss on the Highway Trust Fund, and

Ante, pp. 273, 276, 277.

"(4) the cost of production and the retail cost of alcohol fuels as compared to gasoline and special fuels not mixed with alcohol."

(h) EFFECTIVE DATES.—

(1) SUBSECTIONS (b) AND (c).—The amendments made by subsections (b) and (c) shall apply to sales or uses after September 30, 1980, in taxable years ending after such date.

26 USC 44E note.

(2) SUBSECTION (d).—

26 USC 6427 note.

(A) IN GENERAL.—The amendments made by subsection (d) shall take effect on January 1, 1979.

(B) TRANSITIONAL RULE.—Any mixture sold or used on or after January 1, 1979, and before the date of the enactment of this Act which is described in section 6427(f)(1) of the Internal Revenue Code of 1954 (as amended by subsection (d)) shall, for purposes of section 6427 of such Code, be treated as sold or used on the date of the enactment of this Act.

Ante, p. 277.

(3) DISTILLED SPIRITS PLANTS.—The amendments made by subsection (e) shall take effect on the first day of the first calendar month beginning more than 60 days after the date of the enactment of this Act.

26 USC 5181 note.

PART IV—ENERGY-RELATED USES OF TAX-EXEMPT BONDS

SEC. 241. SOLID WASTE DISPOSAL FACILITIES.

(a) IN GENERAL.—Section 103 (relating to interest on governmental obligations) is amended by redesignating subsection (g) as subsection (h), and by inserting after subsection (f) the following new subsection:

26 USC 103.

"(g) QUALIFIED STEAM-GENERATING OR ALCOHOL-PRODUCING FACILITIES.—

"(1) IN GENERAL.—For purposes of subsection (b)(4)(E), the term 'solid waste disposal facility' includes—

Definitions.

"(A) a qualified steam-generating facility, and

"(B) a qualified alcohol-producing facility.

"(2) QUALIFIED STEAM-GENERATING FACILITY DEFINED.—For purposes of paragraph (1), the term 'qualified steam-generating facility' means a steam-generating facility for which—

"(A) more than half of the fuel (determined on a Btu basis) is solid waste or fuel derived from solid waste, and

"(B) substantially all of the solid waste derived fuel is produced at a facility which is—

"(i) located at or adjacent to the site for such steam-generating facility, and

"(ii) owned and operated by the person who owns and operates the steam-generating facility.

"(3) QUALIFIED ALCOHOL-PRODUCING FACILITY.—For purposes of paragraph (1), the term 'qualified alcohol-producing facility' means a facility—

"(A) the primary product of which is alcohol,

"(B) more than half of the feedstock for which is solid waste or a feedstock derived from solid waste, and

"(C) substantially all of the solid waste derived feedstock for which is produced at a facility which is—

"(i) located at or adjacent to the site for such alcohol-producing facility, and

"(ii) owned and operated by the person who owns and operates the alcohol-producing facility.

"(4) SPECIAL RULE IN CASE OF STEAM-GENERATING FACILITY.—A facility for producing solid waste derived fuel shall be treated as a facility which meets the requirements of clauses (i) and (ii) of paragraph (2)(B) if—

"(A) such facility and the steam-generating facility are owned and operated by or for a State or the same political subdivision or subdivisions of a State, and

"(B) substantially all of the solid waste used in producing the solid waste derived fuel at the facility producing such fuel is collected from the area in which the steam-generating facility is located."

26 USC 103 note.

(b) CERTAIN SOLID WASTE AND ENERGY-PRODUCING FACILITIES.—

Ante, p. 281.
Post, p. 286.

(1) GENERAL RULE.—For purposes of section 103 of the Internal Revenue Code of 1954, any obligation issued by an authority for 2 or more political subdivisions of a State which is part of an issue substantially all of the proceeds of which are to be used to provide solid waste-energy producing facilities shall be treated as an obligation of a political subdivision of a State which meets the requirements of section 103(b)(4)(E) of such Code (relating to solid waste disposal, etc., facilities). Nothing in the preceding sentence shall be construed to override the limitations of section 103(c) of such Code (relating to arbitrage bonds).

(2) SOLID WASTE-ENERGY PRODUCING FACILITIES.—For purposes of paragraph (1), the term "solid waste-energy producing facilities" means any solid waste disposal facility and any facility for the production of steam and electrical energy if—

(A) substantially all of the fuel for the facility producing steam and electrical energy is derived from solid waste from such solid waste disposal facility,

(B) both such solid waste disposal facility and the facility producing steam and electrical energy are owned and operated by the authority referred to in paragraph (1), and

(C) all of the electrical energy and steam produced by the facility for producing steam and electricity which is not used by such facility is sold, for purposes other than resale, to an agency or instrumentality of the United States.

(3) SOLID WASTE DISPOSAL FACILITY.—For purposes of paragraph (2), the term "solid waste disposal facility" means any solid waste disposal facility within the meaning of section 103(b)(4)(E) of the Internal Revenue Code of 1954 (determined without regard to section 103(g) of such Code).

(4) OBLIGATIONS MUST BE IN REGISTERED FORM.—This subsection shall not apply to any obligation which is not issued in registered form.

26 USC 103 note.

(c) SPECIAL RULE FOR CERTAIN ALCOHOL-PRODUCING FACILITIES.—

Ante, p. 281.

(1) IN GENERAL.—Subparagraph (C) of section 103(g)(3) of the Internal Revenue Code of 1954 (as added by subsection (a)) shall not apply to any facility for the production of alcohol from solid waste if—

(A) substantially all of the solid waste derived feedstock for such facility is produced at a facility which—

(i) went into full production in 1977,

(ii) is located within the limits of a city, and

(iii) is located in the same metropolitan area as the alcohol-producing facility, and

(B) before March 1, 1980, there were negotiations between a governmental body and an organization described in section 501(c)(3) of the Internal Revenue Code of 1954 with respect to the utilization of a special process for the production of alcohol at such alcohol-producing facility. 26 USC 501.

(2) LIMITATION.—The aggregate amount of obligations which may be issued by reason of paragraph (1) with respect to any project shall not exceed $30,000,000.

(3) TERMINATION.—This subsection shall not apply to obligations issued after December 31, 1985.

(d) EFFECTIVE DATE.—The amendments made by subsection (a) and the provisions of subsections (b) and (c) shall apply with respect to obligations issued after October 18, 1979. 26 USC 103 note.

SEC. 242. QUALIFIED HYDROELECTRIC GENERATING FACILITIES.

(a) QUALIFIED HYDROELECTRIC GENERATING FACILITIES.—

(1) IN GENERAL.—Paragraph (4) of section 103(b) (relating to certain exempt activities) is amended— 26 USC 103.

(A) by striking out "or" at the end of subparagraph (F),

(B) by striking out the period at the end of subparagraph (G) and inserting in lieu thereof ", or", and

(C) by inserting after subparagraph (G) the following new subparagraph:

"(H) qualified hydroelectric generating facilities."

(2) DEFINITIONS.—Subsection (b) of section 103 is amended by redesignating paragraph (8) as paragraph (9) and by inserting after paragraph (7) the following new paragraph:

"(8) QUALIFIED HYDROELECTRIC GENERATING FACILITIES.—For purposes of this section—

"(A) QUALIFIED HYDROELECTRIC GENERATING FACILITY.—The term 'qualified hydroelectric generating facility' means any qualified hydroelectric generating property which is owned by a State, political subdivision thereof, or agency or instrumentality of any of the foregoing.

"(B) QUALIFIED HYDROELECTRIC GENERATING PROPERTY.—

"(i) IN GENERAL.—Except as provided in clause (ii), the term 'qualified hydroelectric generating property' has the meaning given to such term by section 48(l)(13). *Ante*, p. 262.

"(ii) DAM MUST BE OWNED BY GOVERNMENTAL BODY.—The term 'qualified hydroelectric generating property' does not include any property installed at the site of any dam described in section 48(l)(13)(B)(i)(I) unless such dam was owned by one or more governmental bodies described in subparagraph (A) on October 18, 1979, and at all times thereafter until the obligations are no longer outstanding.

"(C) LIMITATION.—Paragraph (4)(H) of this subsection shall not apply to any issue of obligations (otherwise qualifying under paragraph (4)(H)) if the portion of the proceeds of such issue which is used to provide qualified hydroelectric generating facilities exceeds (by more than an insubstantial amount) the product of—

"(i) the eligible cost of the facilities being provided in whole or in part from the proceeds of the issue, and

"(ii) the installed capacity fraction.

"(D) INSTALLED CAPACITY FRACTION.—The term 'installed capacity fraction' means the fraction—

"(i) the numerator of which is 25, reduced by 1 for each megawatt by which the installed capacity exceeds 100 megawatts, and

"(ii) the denominator of which is the number of megawatts of the installed capacity (but not in excess of 100).

For purposes of the preceding sentence, the term 'installed capacity' has the meaning given to such term by section 48(l)(13)(E).

Ante, p. 262.

"(E) ELIGIBLE COST.—

"(i) IN GENERAL.—The eligible cost of any facilities is that portion of the total cost of such facilities which is reasonably expected—

"(I) to be the cost to the governmental body described in subparagraph (A), and

"(II) to be attributable to periods after October 18, 1979, and before 1986 (determined under rules similar to the rules of section 48(m)).

"(ii) LONGER PERIOD FOR CERTAIN HYDROELECTRIC GENERATING PROPERTY.—If an application has been docketed by the Federal Energy Regulatory Commission before January 1, 1986, with respect to the installation of any qualified hydroelectric generating property, clause (i)(II) shall be applied with respect to such property by substituting '1989' for '1986'.

"(F) CERTAIN PRIOR ISSUES TAKEN INTO ACCOUNT.—If the proceeds of 2 or more issues (whether or not the issuer of each issue is the same) are or will be used to finance the same facilities, then, for purposes of subparagraph (C), in determining the amount of the proceeds of any later issue used to finance such facilities, there shall be taken into account the proceeds used to finance such facilities of all prior such issues which are outstanding at the time of such later issue (not including as outstanding any obligation which is to be redeemed from the proceeds of the later issue)."

26 USC 103 note.

(b) APPLICATION OF SECTION 103(b)(4)(H) TO CERTAIN FACILITIES.—

Ante, p. 283.

(1) IN GENERAL.—For purposes of section 103(b)(4)(H) of the Internal Revenue Code of 1954 (relating to qualified hydroelectric generating facilities), in the case of a hydroelectric generating facility described in paragraph (2)—

(A) the facility shall be treated as a qualified hydroelectric generating facility (as defined in section 103(b)(8)(A) of such Code) without regard to clause (ii) of section 48(l)(13)(B) of such Code (relating to maximum generating capacity), and

(B) the fraction referred to in subparagraph (C) of section 103(b)(8) of such Code shall be deemed to be 1.

(2) FACILITIES TO WHICH PARAGRAPH (1) APPLIES.—A facility is described in this paragraph if—

(A) it would be a qualified hydroelectric generating facility (as defined in section 103(b)(8)(A) of such Code) if clause (ii) of section 48(l)(13)(B) did not apply,

(B) it constitutes an expansion of generating capacity at an existing hydroelectric generating facility,

pages tightly bound

(C) such facility is located at 1 of 2 dams located in the same county where—

(i) the rated capacity of the hydroelectric generating facilities at each such dam on October 18, 1979, was more than 750 megawatts,

(ii) the construction of the first such dam began in 1956, power at such first dam was first generated in 1959, and full power production at such first dam began in 1961, and

(iii) the construction of the second such dam began in 1959, power at such second dam was first generated in 1963, and full power production at such second dam began in 1964,

(D) acquisition or construction of the existing facility referred to in subparagraph (B) was financed with the proceeds of an obligation described in section 103(a)(1) of such Code, 26 USC 103.

(E) the existing facility is owned and operated by a State, political subdivision of a State, or agency or instrumentality of any of the foregoing,

(F) no more than 60 percent of the electric power and energy produced by such existing facility and of the qualified hydroelectric generating facility is to be sold to anyone other than an exempt person (within the meaning of section 103(b)(3) of such Code), and

(G) the agency of the State in which the facility is located which has jurisdiction over water rights had granted, before October 18, 1979, a water right under which expanded power and energy generating capacity for the facility was contemplated.

(c) EFFECTIVE DATE.—The amendments made by subsection (a) and the provisions of subsection (b) shall apply with respect to obligations issued after October 18, 1979. 26 USC 103 note.

SEC. 243. RENEWABLE ENERGY PROPERTY. 26 USC 103 note.

(a) CERTAIN STATE OBLIGATIONS FOR RENEWABLE ENERGY PROPERTY.—

(1) IN GENERAL.—Paragraph (1) of subsection (b) of section 103 of the Internal Revenue Code of 1954 shall not apply to any obligation issued as part of an issue substantially all of the proceeds of which are to be used to provide renewable energy property, if—

(A) the obligations are general obligations of a State,

(B) the authority for the issuance of the obligations requires that taxes be levied in sufficient amount to provide for the payment of principal and interest on such obligations,

(C) the amount of such obligations, when added to the sum of the amounts of all such obligations previously issued by the State which are outstanding, does not exceed the smaller of—

(i) $500,000,000 or

(ii) one-half of 1 percent of the value of all property in the State,

(D) such obligations are issued pursuant to a program to provide financing for small scale energy projects which was established by a State the legislature of which, before Octo-

ber 18, 1979, approved a constitutional amendment to provide for such a program, and

(E) such obligations meet the requirements of paragraph (1) of section 103(h) of the Internal Revenue Code of 1954.

Ante, p. 281.
Infra.

(2) RENEWABLE ENERGY PROPERTY.—For purposes of this subsection, the term "renewable energy property" means property used to produce energy (including heat, electricity, and substitute fuels) from renewable energy sources (including wind, solar, and geothermal energy, waste heat, biomass, and water).

(b) EFFECTIVE DATE.—Subsection (a) shall apply with respect to obligations issued after the date of enactment of this Act.

SEC. 244. CERTAIN OBLIGATIONS MUST BE IN REGISTERED FORM AND NOT GUARANTEED OR SUBSIDIZED UNDER AN ENERGY PROGRAM.

Ante, p. 281.

(a) GENERAL RULE.—Section 103 (relating to interest on governmental obligations), as amended by section 241, is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

"(h) CERTAIN OBLIGATIONS MUST BE IN REGISTERED FORM AND NOT GUARANTEED OR SUBSIDIZED UNDER AN ENERGY PROGRAM.—

"(1) IN GENERAL.—An obligation to which this subsection applies shall be treated as an obligation not described in subsection (a) if—

"(A) such obligation is not issued in registered form,

"(B) the payment of principal or interest with respect to such obligation is guaranteed (in whole or in part) by the United States under a program a principal purpose of which is to encourage the production or conservation of energy, or

"(C) the payment of the principal or interest with respect to such obligation is to be made (in whole or in part) with funds provided under such a program of the United States, a State, or a political subdivision of a State.

"(2) OBLIGATIONS TO WHICH THIS SUBSECTION APPLIES.—This subsection shall apply to any obligations to which paragraph (1) of subsection (b) does not apply by reason of—

Ante, p. 283.

"(A) subsection (b)(4)(H) (relating to qualified hydroelectric generating facilities), or

"(B) subsection (g) (relating to qualified steam-generating or alcohol-producing facilities)."

26 USC 103 note.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to obligations issued on or after October 18, 1979.

PART V—TERTIARY INJECTANTS

SEC. 251. TERTIARY INJECTANTS.

(a) DEDUCTION FOR TERTIARY INJECTANTS.—

(1) IN GENERAL.—Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations) is amended by adding at the end thereof the following new section:

26 USC 193.

"SEC. 193. TERTIARY INJECTANTS.

"(a) ALLOWANCE OF DEDUCTION.—There shall be allowed as a deduction for the taxable year an amount equal to the qualified tertiary injectant expenses of the taxpayer for tertiary injectants injected during such taxable year.

Definitions.

"(b) QUALIFIED TERTIARY INJECTANT EXPENSES.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified tertiary injectant expenses' means any cost paid or incurred during the taxable year (whether or not chargeable to capital account) for any tertiary injectant (other than a hydrocarbon injectant which is recoverable) which is used as a part of a tertiary recovery method.

"(2) HYDROCARBON INJECTANT.—The term 'hydrocarbon injectant' includes natural gas, crude oil, and any other injectant which is comprised of more than an insignificant amount of natural gas or crude oil. The term does not include any tertiary injectant which is hydrocarbon-based, or a hydrocarbon-derivative, and which is comprised of no more than an insignificant amount of natural gas or crude oil. For purposes of this paragraph, that portion of a hydrocarbon injectant which is not a hydrocarbon shall not be treated as a hydrocarbon injectant.

"(3) TERTIARY RECOVERY METHOD.—The term 'tertiary recovery method' means—

"(A) any method which is described in subparagraphs (1) through (9) of section 212.78(c) of the June 1979 energy regulations (as defined by section 4996(b)(8)(C)), or 10 CFR 212.78. *Ante*, p. 247.

"(B) any other method to provide tertiary enhanced recovery which is approved by the Secretary for purposes of this section.

"(c) APPLICATION WITH OTHER DEDUCTIONS.—No deduction shall be allowed under subsection (a) with respect to any expenditure—

"(1) with respect to which the taxpayer has made an election under section 263(c), or 26 USC 263.

"(2) with respect to which a deduction is allowed or allowable to the taxpayer under any other provision of this chapter."

(2) TECHNICAL AND CONFORMING AMENDMENTS.—

(A) The table of sections for such part VI is amended by adding at the end thereof the following new item:

"Sec. 193. Tertiary injectants."

(B) Section 263(a)(1) (relating to capital expenditures) is amended—

(i) by striking out "or" at the end of subparagraph (E),

(ii) by striking out the period at the end of subparagraph (F) and inserting in lieu thereof ", or", and

(iii) by adding at the end thereof the following new subparagraph:

"(G) expenditures for tertiary injectants with respect to which a deduction is allowed under section 193." *Ante*, p. 286.

(C) Section 1245(a) (relating to gain from dispositions of certain depreciable property) is amended— 26 USC 1245.

(i) by striking out "or 190" each place it appears in paragraphs (2)(D) and (3)(D) and inserting in lieu thereof "190, or 193",

(ii) by inserting "193," after "190," each place it appears in paragraph (2), and

(iii) by inserting "or 193" after "190" in the last sentence of paragraph (2).

(D) Section 1250(b)(3) (relating to depreciation adjustments) is amended by striking out "or 190" and inserting in lieu thereof "190, or 193". 26 USC 1250.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1979. 26 USC 193 note.

Home Energy Assistance Act of 1980.

TITLE III—LOW-INCOME ENERGY ASSISTANCE

SHORT TITLE

42 USC 8601 note.

SEC. 301. This title may be cited as the "Home Energy Assistance Act of 1980".

STATEMENT OF FINDINGS AND PURPOSE

42 USC 8601.

SEC. 302. (a) The Congress finds that—

(1) recent dramatic increases in the cost of primary energy sources have caused corresponding sharp increases in the cost of home energy;

(2) reliable data projections show that the cost of home energy will continue to climb at excessive rates;

(3) the cost of essential home energy imposes a disproportionately larger burden on fixed-income, lower income, and lower middle income households and the rising cost of such energy is beyond the control of such households;

(4) fixed-income, lower-income, and lower-middle-income households should be protected from disproportionately adverse effects on their incomes resulting from national energy policy;

(5) adequate home heating is a necessary aspect of shelter and the lack of home heating poses a threat to life, health, or safety;

(6) adequate home cooling is necessary for certain individuals to avoid a threat to life, health, or safety;

(7) low-income households often lack access to energy supplies because of the structure of home energy distribution systems and prevailing credit practices; and

(8) assistance to households in meeting the burden of rising energy costs is insufficient from existing State and Federal sources.

Grants.

(b) It is the purpose of this title to make grants to States to provide assistance to eligible households to offset the rising costs of home energy that are excessive in relation to household income.

DEFINITIONS

42 USC 8602.

SEC. 303. As used in this title—

(1) "household" means any individual or group of individuals who are living together as one economic unit for whom residential energy is customarily purchased in common or who make undesignated payments for energy in the form of rent;

(2) "home energy" means a source of heating or cooling in residential dwellings;

(3) "lower living standard income level" means the income level (adjusted for regional, metropolitan, and nonmetropolitan differences and family size) determined annually by the Secretary of Labor based upon the most recent "lower living standard family budget" issued by the Secretary of Labor;

(4) "Secretary" means the Secretary of Health, Education, and Welfare; and

(5) "State" means each of the several States and the District of Columbia.

HOME ENERGY GRANTS AUTHORIZED

SEC. 304. (a) The Secretary is authorized to make grants, in accordance with the provisions of this title, to States on behalf of eligible households to assist such households to meet the rising costs of home energy. 42 USC 8603.

(b) There are authorized to be appropriated $3,000,000,000 for the fiscal year 1981 to carry out the provisions of this title.

(c) For the purpose of affording adequate notice of assistance available under this title, appropriations under this title are authorized to be included in an appropriation Act for the fiscal year preceding the fiscal year for which they are available for obligation. Funds appropriated under subsection (b) of this section shall remain available until expended.

ELIGIBLE HOUSEHOLDS

SEC. 305. (a) Eligible household means any household which the State determines is— 42 USC 8604.

(1) a household in which one or more individuals are eligible for (A) aid to families with dependent children under the State's plan approved under part A of title IV of the Social Security Act (other than such aid in the form of foster care in accordance with section 408 of such Act), (B) supplemental security income payments under title XVI of the Social Security Act, (C) food stamps under the Food Stamp Act of 1977, or (D) payments under section 415, 521, 541, or 542 of title 38, United States Code (relating to certain veterans' benefits); and 42 USC 601. 42 USC 608. 42 USC 1381. 7 USC 2011 note.

(2) any other household with an income equal to or less than the lower living standard income level as determined pursuant to subsection (c) of this section.

(b) Notwithstanding clause (1) of subsection (a), a household which is eligible for supplemental security income payments under title XVI of the Social Security Act, but not eligible under subsection (a)(1)(A), (C), or (D) of this section, shall not be considered eligible for home energy assistance under this title if the eligibility of a household is dependent upon—

(1) an individual whose annual supplemental security income benefit rate is reduced pursuant to section 1611(e)(1) of the Social Security Act by reason of being in an institution receiving payments (under title XIX of that Act) with respect to that individual, 42 USC 1382. 42 USC 1396.

(2) an individual to whom the reduction specified in section 1612(a)(2)(A)(i) of that Act applies, or 42 USC 1382a.

(3) a child described in section 1614(f)(2) of that Act (who is living together with a parent or the spouse of a parent). 42 USC 1382c.

(c) In verifying income eligibility for the purpose of clause (2) of subsection (a), the State shall apply procedures and policies consistent with procedures and policies used by the State agency administering programs under part A of title IV of the Social Security Act. 42 USC 601.

ALLOTMENTS

SEC. 306. (a)(1) From 95 per centum of the sums appropriated pursuant to section 304(b) for the fiscal year 1981, the Secretary shall allot to each State an amount which bears the same ratio to one-half of such 95 per centum as the aggregate residential energy expenditure in such State bears to the aggregate residential energy expenditure for all States. 42 USC 8605.

(2) From 95 per centum of such sums, the Secretary shall allot to each State an amount which bears the same ratio to one-half of such 95 per centum as the total number of heating degree days in such State squared, multiplied by the number of households in such State having incomes equal to or less than the lower living standard income level, bears to the sum of such products for all States.

(3)(A) If the allotment for any State determined under paragraphs (1) and (2) of this subsection is less than $100,000,000, the allotment of such State shall, subject to paragraphs (6) and (8) of this subsection, be the greater of its allotment as so determined under paragraphs (1) and (2) or the product of the total amount available for allotment under paragraphs (1) and (2) of this subsection and such State's alternative allotment percentage.

(B) If the allotment for any State determined under paragraphs (1) and (2) of this subsection is equal to or more than $100,000,000, the allotment of such State shall, subject to paragraphs (6) and (8) of this subsection and subparagraph (C) of this paragraph, be the greater of its allotment as so determined under such paragraphs (6) and (8) or the product of the total amount available for allotment under paragraphs (1) and (2) of this subsection and such State's alternative allotment percentage.

Appropriation authorization.

(C) There is authorized to be appropriated amounts not in excess of $90,000,000 for the fiscal year 1981 for the additional amounts to be allocated pursuant to subparagraph (B) of this paragraph.

(4) The alternative allotment percentage for any State shall be equal to (A) the percentage of 95 per centum of the total amount appropriated for the fiscal year pursuant to section 304(b) which the State would receive if its allotment were increased from the $25,000,000 authorized under this subsection to the extent necessary (as determined by the Secretary on the basis of what he determines to be the best available information) so that, if such allotment were divided in a manner such that the amount for all recipient households in such State consisting of only one individual were equal, and the amount for all other recipient households in such State were equal to 150 per centum of such amount for a one-individual household, sufficient additional amounts would be available to assure that the amount for each recipient household would be at least $120, or, unless the percentage determined under subparagraph (A) would be higher, (B) the percentage of 90 per centum of the total amount authorized to be appropriated for fiscal year 1981 under section 304(b) which would be allotted to such State if—

(i) of such 90 per centum (I) one-half was allotted to each State according to the ratios determined under paragraph (1) of subsection (a) of this section and (II) one-half was allotted to each State according to the ratios which would be determined under paragraph (2) of such subsection (a) if, for purposes of such paragraph, the word "squared" were deleted and the term "lower living standard" were defined as 125 per centum of the poverty level as determined in accordance with the criteria established by the Office of Management and Budget; and

(ii) the allotment of each State as determined under subdivision (i) were increased to the extent necessary (as determined by the Secretary on the basis of what he determines to be the best available information) so that, if such allotment were divided in a manner such that the amount for all recipient households in such State consisting of only one individual were equal, and the amount for all other recipient households in such State were equal to 150 per centum of such amount for a one-individual

household, sufficient additional amounts would be available to assure that the amount for each recipient household would be at least $120.

There are authorized to be appropriated $25,000,000 for the fiscal year 1981 for the additional amounts to be allocated to States pursuant to the application of subparagraph (A) of this paragraph. In the event that the aggregate of such additional amounts would exceed the amount appropriated under the preceding sentence, the additional amount applicable to each State shall be reduced on a pro rata basis. Appropriation authorization.

(5) For purposes of this subsection, the term "recipient household" means— "Recipient household."

(A) a household that is an eligible household under section 3(i) of the Food Stamp Act of 1977 and participates in the food stamp program, but which is not a recipient household under subparagraph (B) or (C) of this paragraph; 7 USC 2012.

(B) a household that contains any individual who receives aid to families with dependent children under a State plan approved under part A of title IV of the Social Security Act, but which is not a recipient household under subparagraph (C); and 42 USC 601.

(C) a household that contains an individual who is an eligible individual or eligible spouse receiving supplemental security income benefits under title XVI of the Social Security Act, or an individual receiving payments from the Secretary under an agreement entered into by the Secretary under section 1616 of such Act or section 212 of Public Law 93-66. 42 USC 1381. 42 USC 1382e. 87 Stat. 155.

For purposes of subparagraphs (B) and (C) the term "household" shall be defined by the Secretary, and shall not include an institution.

(6) The allotment of any State shall be increased under paragraph (3) of this subsection only if the increase is attributable in whole or part to the provisions of subparagraph (A) or (B)(ii) of paragraph (4).

(7) If the allotment for any State determined under paragraphs (1) and (2) of this subsection (without the application of paragraph (8)), is less than the lower of—

(A) the amount which would be allotted to such State if "one-half" in paragraph (1) of this subsection were replaced by "one-quarter" and "one-half" in paragraph (2) of this subsection were replaced by "three-quarters"; or

(B) the amount which would be allotted to such State if the word "squared" in paragraph (2) of this subsection were deleted,

then the allotment of such State shall, subject to paragraph (8) of this subsection, be increased to the lower of the allotment it would receive under subparagraph (A) or (B).

(8) The allotments for any fiscal year determined under paragraphs (1) and (2) of this subsection which are not increased pursuant to paragraphs (3)(A) and (7) of this subsection shall be adjusted to the extent necessary and on a pro rata basis to assure that the total of such allotments when added to the allotments which are increased pursuant to paragraphs (3)(A) and (7) of this subsection do not exceed the sum of (A) 95 per centum of the sums appropriated for such fiscal year pursuant to section 304(b) plus (B) the amount appropriated pursuant to the authorization in paragraph (4).

(9) If the amount appropriated for fiscal year 1981 is less than the sum of $3,000,000,000 plus such additional amounts as are necessary to carry out paragraphs (3) and (4), then each State's allotment shall be determined on the basis of an appropriation of such sum and shall be reduced on a pro rata basis as necessary.

(b)(1) From the remainder of the sums appropriated pursuant to section 304(b) for each fiscal year, the Secretary shall—

(A) first reserve $2,500,000 to be apportioned on the basis of need between the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, Northern Mariana Islands, and the Trust Territory of the Pacific Islands, and

(B) then transfer to the Director of the Community Services Administration $100,000,000, subject to the provisions of the second sentence of this paragraph for carrying out energy crisis related activities under section 222(a)(5) of the Economic Opportunity Act of 1964.

42 USC 2809.

The percentage of the amount transferred under subparagraph (B) of this paragraph and available for use in each State shall be the same percentage as the percentage allotted to such State under this section for the total amounts available for allotment to States under subsection (a) of this section. Twenty per centum of the total amount transferred under subparagraph (B) may be utilized without regard to the requirements of the preceding sentence.

(2) Each jurisdiction to which paragraph (1)(A) applies may receive grants under this title upon an application submitted to the Secretary containing provisions which describe the programs for which assistance is sought under this title, and which are consistent with the requirements of section 308(b) of this title.

Incentive grants to States.

(3)(A)(i) The remainder of the sums appropriated pursuant to section 304(b) shall be distributed for home energy assistance programs in accordance with the provisions of this subparagraph. The Secretary shall make incentive grants to States to pay a Federal share of incentive fuel assistance programs for residential energy costs established by any State to serve the same population as the population eligible under this title.

(ii) No grant may be made under this subparagraph unless the State makes an application to the Secretary containing such provisions which the Secretary deems necessary and which describes the State program for which assistance is sought under this subparagraph.

(iii) The Federal share for any fiscal year for Federal assistance under this subparagraph shall not exceed 25 per centum.

(B) That part of the remainder of the sums appropriated pursuant to section 304(b) which is not required to carry out the provisions of subparagraph (A) of this paragraph shall be distributed by the Secretary in accordance with the allocation formula contained in subsection (a) of this section.

Outreach activities.

(4)(A) From the sums appropriated pursuant to section 304(b) and made available under paragraph (1)(B) of this subsection, the Director shall reserve a sum not to exceed $3,000,000 in each fiscal year for outreach activities designed to assure that eligible households with elderly members are made aware of the assistance available under this title. The Director shall enter into agreements with national aging organizations to carry out the provisions of this subparagraph.

(B) No payment may be made by the Director under this paragraph to any national aging organization unless the Director determines that such outreach activities will be coordinated with State outreach activities required under section 308(b)(16).

(c) The portion of any State's allotment under subsection (a) for a fiscal year, which the Secretary determines will not be required for the period such allotment is available for carrying out the purposes of this title, shall be available for reallotment from time to time, on such dates during such period as the Secretary may fix, to other States

based on need and ability to expend the funds consistent with the provisions of this title and taking into account the proportion of the original allotments made available to such States under subsection (a) for such year, but with such proportionate amount for any of such other States being reduced to the extent it exceeds the sum which the Secretary estimates such State needs and will be able to use for such period for carrying out such portion of its State application approved under this title, and the total reduction shall be similarly reallotted among the States whose proportionate amounts are not so reduced. In carrying out the requirements of this subsection the Secretary shall take into account the climatic conditions and such other relevant factors as may be necessary to assure that no State loses funds necessary to carry out the purposes of this title. Any amount reallotted to a State under this subsection during a year shall be deemed part of its allotment under subsection (a) for such year.

(d)(1) Any allocations to a State may be reallocated only if the Secretary has provided thirty days advance notice to the chief executive and to the general public. During such period comments may be submitted to the Secretary. Reallocations, advance notice and comment period.

(2) After considering any comments submitted during such period, the Secretary shall notify the chief executive of any decision to reallocate funds, and shall publish such decision in the Federal Register. Publication in Federal Register.

(e) The aggregate residential energy expenditure for each State and for all States shall be determined by the Secretary after consulting with the Secretary of Energy.

(f) The allotments made under this section shall be made on the basis of the latest reliable data available to the Secretary.

(g)(1) In any State in which the Secretary determines (after having taken into account the amount of funds available to the State) that the members of an Indian tribe are not receiving benefits under this title that are equivalent to benefits provided to other households in the State, and if the Secretary further determines that the members of such tribe would be better served by means of grants made directly to provide such benefits, the Secretary shall reserve from sums that would otherwise be allotted to such State not less than 100 per centum of an amount which bears the same ratio to the State's allotment for the fiscal year involved as the population of all eligible Indians for whom a determination under this paragraph has been made bears to the population of all eligible households in such State. Indian tribe members, benefits provision.

(2) The sums reserved by the Secretary on the basis of a determination under this subsection shall be granted to the tribal organization serving the individuals for whom such a determination has been made, or where there is no tribal organization, to such other entity as the Secretary determines has the capacity to provide assistance pursuant to this title.

(3) In order for a tribal organization or other entity to be eligible for an award for a fiscal year under this subsection, it shall submit to the Secretary a plan for such fiscal year which meets such criteria as the Secretary may prescribe by regulation. Eligibility, submittal of plan.

USES OF HOME ENERGY GRANTS

SEC. 307. Grants for fiscal year 1981 under this title may be used for home energy assistance in accordance with plans approved under section 308. 42 USC 8606.

STATE PLANS

42 USC 8607.

SEC. 308. (a) Each State desiring to receive a home energy grant under this title shall submit a State plan to the Secretary, at such time, in such manner, and containing or accompanied by such information as the Secretary deems necessary.

Requirements.

(b) Each such State plan shall—

(1) be submitted in accordance with the procedures, timetables, and standards established by the Secretary pursuant to subsection (d)(4) of this section;

(2) designate an agency of the State to be determined by the chief executive to administer the program authorized by this title and describe local administrative arrangements;

Assistance payments.

(3) provide for a State program for furnishing home energy assistance to eligible households through payments made in accordance with the provisions of the plan, to—

(A)(i) home energy suppliers,

(ii) eligible households whenever the chief executive determines such payments to be feasible, or when the eligible household is making undesignated payments for rising energy costs in the form of rent increases, or

(iii) any combination of home energy supplier and eligible household whenever the chief executive determines such payments to be feasible, and

(B) building operators, in housing projects established under sections 221(d)(3) and 236 of the National Housing Act of 1968, section 202 of the Housing Act of 1959, section 515 of the Housing Act of 1949, low rent housing established by the United States Housing Act of 1937, and section 8 of the Housing Act of 1974, and State and local government-operated projects in an aggregate monthly amount computed on the basis of the number of eligible tenants making undesignated energy payments in the form of rent times of quotient of the exact costs of residential fuel costs paid as an undesignated part of rent divided by the number of tenants, the amount of such monthly quotient not to exceed a ceiling amount per eligible tenant as determined under regulations by the Secretary annually to be comparable to the amount established for other eligible households, if such operators give assurances to the State that tenants eligible for assistance under this title are not discriminated against with respect to rent;

12 USC 1701q.
42 USC 1485.
42 USC 1437 note.

(4) describe with particularity the procedures by which eligible households in the State are identified and certified as participants;

(5) describe energy usage and the average cost of home energy in the State identified by the type of fuel and by region of the State;

(6) describe the amount of assistance to be provided to or on behalf of participating households assuring (A) that priority is given to households with lowest incomes and to eligible households having at least one elderly or handicapped individual, and (B) that the highest level of assistance is provided to households with lowest incomes and the highest energy costs in relation to income, taking into account—

(i) the average home energy expenditure,

(ii) the proportional burden of energy costs in relation to ranges of income,

(iii) the variation in degree days in regions of the State in any State where appropriate, and

(iv) any other relevant consideration selected by the chief executive including provisions for payment levels for households making undesignated payments in the form of rent;

(7) provide, in accordance with clause (3)(A), for agreements with home energy suppliers under which— Home energy suppliers, agreements.

(A) the State will pay on a timely basis by way of regular installments, as reimbursements or a line of credit, to the supplier designated by each participating household the amount of assistance determined in accordance with clause (6) and shall notify each participating household of the amount of assistance paid on its behalf;

(B) the home energy supplier will charge the household specified in subclause (A), in the normal billing process, the difference between the actual cost of the home energy and the amount of the payment made by the State under this title;

(C) the home energy supplier will provide assurances that the home energy supplier will not discriminate against any eligible household in regard to terms and conditions of sale, credit, delivery and price; and

(D) subject to such subsection (f) of this section the home energy supplier will provide assurances that any agreement entered into with a home energy supplier under this clause will contain provisions to assure that no household receiving assistance under this title will have home energy terminated unless—

(i) the household has failed to pay the amount charged to such household in accordance with subclause (B) for at least two months,

(ii) the household receives a written termination notice not less than thirty days prior to the termination, and

(iii) the household is afforded, in a timely fashion before termination, an opportunity for a hearing by an agency designated by the State;

unless the supplier is located in a State in which the termination policy contains provisions for a longer grace period, or notification period, than that described in this clause;

(8) provide for the direct payment to households to which subclauses (A) (ii) and (iii) of clause (3) applies; Direct payments.

(9) provide for public participation in the development of the plan; Public participation.

(10) provide assurances that the State will treat owners and renters equitably under the program assisted under this title; Owners and renters, equal treatment.

(11) provide that—

(A) the State may use for planning and administering the plan an amount of the funds received by such State under this title not to exceed 5 per centum of the cost of carrying out the plan except that—

(i) upon proof of unusual circumstances and upon application to the Secretary, the State may use an additional amount for planning and administering the plan not to exceed 2½ per centum of the cost of carrying out the plan, and

(ii) in no case may the Federal share of the cost of planning and administering the plan exceed 50 per centum of such cost, and

(B) the State will pay from non-Federal sources the remaining costs of planning and administering the plan and will not use Federal funds for such remaining costs;

(12) describe the administrative procedures to be used in carrying out the plan;

Hearing.

(13) provide an opportunity for a fair hearing before the State agency designated under clause (2) to any individual whose claim for assistance under the plan is denied or is not acted upon with reasonable promptness;

Weather-related and supply shortage emergencies.

(14) provide that, of the funds the State receives for each fiscal year, the State may reserve 3 per centum of the funds to be available for weather related and supply shortage emergencies, and if the State reserves such funds, the plan shall identify—

(A) the procedures for planning for such emergencies,

(B) the administrative procedures designating the emergency and implementing an emergency plan,

(C) the procedures for determining the assistance to be provided in such emergencies, and

(D) the procedures for the use of the funds under this clause for the purposes of this title in the event that there are no emergencies;

(15) provide assurance that there will be, to the maximum extent possible, referral of individuals to, and coordination with, existing Federal, State, and local weatherization and energy conservation efforts;

Outreach activities.

(16) provide for outreach activities designed to assure that all eligible households, particularly households with elderly or handicapped individuals, households with individuals who are unable to leave their residences, households with migrants, households with individuals with limited English proficiency, households with working poor individuals, households with children, and households in remote areas, are aware of the assistance available under this title by using community action agencies, area agencies on aging, State and local welfare agencies, volunteer programs carried out under the Domestic Volunteer Service Act of 1973, and other appropriate agencies and organizations within the State including home energy suppliers together with provisions for the reimbursement of such agencies, from administrative funds, for outreach and certification activities;

42 USC 4951 note.

(17) establish procedures for monitoring the assistance provided under the plan including monitoring and auditing any agreements entered into under clause (7) of this subsection and describe the documentation to be required of energy suppliers concerning energy supplied to eligible households;

(18) provide assurances that the State will not reduce regular benefit levels, from the levels of such benefits as of February 26, 1980, in existing federally assisted cash assistance programs, except that in a State which increases such programs solely for the purpose of energy assistance, such increase shall not be considered a part of the regular program for the purposes of this paragraph;

Fiscal control and fund accounting.

(19) provide that fiscal control and fund accounting procedures will be established as may be necessary to assure the proper dispersal of and accounting for Federal funds paid to the State under this title;

(20) provide that reports will be furnished in such form and contain such information as the Secretary may reasonably require, particularly for the carrying out of provisions of section 309; and Reports.

(21) provide assurances in the case described in section 305(a)(2) that the State will not establish any standards of eligibility under this title based on an assets test which counts cars, household and personal belongings, or primary residences and in the case of a household which the State determines to be eligible under section 305(a)(1), no such test will be established under this title.

(c) The State is authorized to make grants to eligible households to meet the rising costs of cooling whenever the household establishes that such cooling is the result of medical need pursuant to standards established by the Secretary. Grants.

(d)(1) The Secretary shall approve any State plan, or modification thereof, that meets the requirements of subsections (b) and (c) and shall not finally disapprove, in whole or in part, any plan, or any notification thereof, for assistance under this title without first affording the State reasonable notice and opportunity for a hearing within the State. Whenever the Secretary disapproves a plan the Secretary shall, on a timely basis, assist the State to overcome the deficiencies in the plan. Plan approval and disapproval.

(2) Where the Secretary determines that a waiver is likely to assist in promoting the objectives of this title, the Secretary may waive compliance with any of the requirements of subsection (b) to the extent and for the period the Secretary finds necessary to enable any such State to carry out the program assisted under this title. Waiver.

(3) The Secretary shall carry out the functions of the Secretary under this section promptly.

(4) The Secretary, as soon as possible after the date of enactment of this title, shall establish criteria and standards for the State plan requirements under subsections (b) and (c) of this section, together with timetables for carrying out the plan.

(e) Any State which makes advances available for activities relating to the development of a State plan and for other activities under this title in substantial compliance with an approved State plan may be reimbursed for such advances from the allocation made to that State under section 306(a) when funds are appropriated to carry out the provisions of this title.

(f) A State agency may exempt small home energy suppliers from the requirements of subsection (b)(7)(D), of this section if the State agency determines that compliance with such subsection, will seriously jeopardize the ability of the small home energy supplier to conduct such business. Exemption.

(g) A State may use funds available under this title for the purpose of providing credits against State tax to energy suppliers who supply such energy at reduced rates to lower income households, but such credit may not exceed the amount of the loss of revenue to such supplier on account of such reduced rate. Any certifications for such tax credits shall be made by the State, but such State may utilize Federal data available to such State with respect to recipients of supplemental security income benefits if timely delivery of benefits to eligible households and suppliers will not be impeded by the implementation of such plan. Credits against State tax.

(h) At the option of the State, any portion of such State's allotment may be reserved by the Secretary for the purpose of making direct payments to eligible households (except for individuals described in Direct payments.

42 USC 1381.

section 305(b) (1), (2), and (3)) containing a recipient of supplemental security income benefits under title XVI of the Social Security Act for home energy assistance in accordance with guidelines issued by the Secretary.

Form of payment.

(i) At the option of the State, payments described in subsection (b) of this section may be made, without limitation, in the form of a duly issued coupon, stamp, or certificate.

UNIFORM DATA COLLECTION

42 USC 8608.

SEC. 309. (a) The Secretary, after consultation with the Secretary of Energy, shall establish uniform standards for data collection which shall be used by States in all reports required under this title.

(b)(1) The standards established by the Secretary under this section shall apply to (A) information concerning home energy consumption, (B) the cost and type of fuels used, (C) the type of fuel used by various income groups, (D) the number and income levels of households assisted by this title, and (E) any other information which the Secretary determines to be reasonably necessary to carry out the provisions of this title.

(2) In carrying out this section, the Secretary shall analyze information supplied by the Secretary of Energy on the price structure of various types of fuel, particularly the increases in such price structure as it relates to the financial assistance provided under this title.

Report to Congress.

(c) The Secretary shall report annually to Congress concerning data collected under subsection (b).

PAYMENTS

42 USC 8609.

SEC. 310. (a) From the amount allotted to each State pursuant to section 306, the Secretary shall pay to the State which has an application approved under section 308 an amount equal to the amount needed for the purposes set forth in the State plan.

(b) Payments under this title may be made in installments in advance or by way of reimbursement, with necessary adjustments on account of overpayments and underpayments.

WITHHOLDING

42 USC 8610.

SEC. 311. Whenever the Secretary, after reasonable notice and opportunity for hearing within the State to any State, finds that there has been a substantial failure to comply with any provision set forth in the State plan of that State approved under section 308, the Secretary shall notify the State that further payments will not be made under this title until the Secretary is satisfied that there is no longer any such failure to comply. Until the Secretary is so satisfied, no further payments shall be made under this title.

CRIMINAL PENALTIES

42 USC 8611.

SEC. 312. Whoever violates provisions of this title or who knowingly provides false information in any report required under this title shall be fined not more than $10,000 or imprisoned not more than five years or both.

ADMINISTRATION

Delegation of authority.
42 USC 8612.

SEC. 313. (a)(1) The Secretary may delegate any functions under this title, except the making of regulations, to any officer or employee of the Department of Health, Education, and Welfare.

(2) The Secretary shall issue regulations under this title, within sixty days after the date of enactment of this title. Regulations.

(b) In administering the provisions of this title, the Secretary is authorized to utilize the services and facilities of any agency of the Federal Government and of any other public agency or institution, to the extent such services and facilities are otherwise authorized to be made available for such purpose, in accordance with appropriate agreements, and to pay for such services either in advance or by way of reimbursement as may be agreed upon. Federal agency services and facilities, utilization.

(c)(1) Notwithstanding any other provision of law, the amount of any fuel assistance payments or allowances provided to an eligible household under this title shall not be considered income or resources of such household (of any member thereof) for any purpose under any Federal or State law, including any law relating to taxation, public assistance or welfare program.

(2) Section 5(d) of the Food Stamp Act of 1977 is amended by striking out "and (10)" and inserting in lieu thereof the following: "(10) during fiscal year 1981, any income attributable to an increase in State public assistance grants which is intended primarily to meet the increased cost of home energy, and (11)". 7 USC 2014.

(d) The Secretary shall establish procedures for Federal monitoring of State administration of programs assisted under this title. Federal monitoring. 42 USC 8612.

(e) The Secretary shall coordinate the administration of the program established under this title with appropriate programs authorized by the Economic Opportunity Act of 1964 and any other existing Federal energy programs which provide related assistance programs. 42 USC 2701 note.

(f) The Secretary, after consultation with the Secretary of the Department of Energy, the Director of the Community Services Administration, the Secretary of Housing and Urban Development and the Secretary of Agriculture, shall establish procedures for referrals for participation in Federal weatherization programs under section 308(b)(15).

(g) The Secretary, in cooperation with such other agencies as may be appropriate, shall develop and implement the capacity for estimating total annual energy expenditures of low-income households in each State. The Secretary shall submit to the Congress his estimates pursuant to this subsection together with a description of the manner in which they were determined prior to the beginning of each calendar year starting with 1981. Total annual energy expenditure estimates. Submittal to Congress.

TITLE IV—MISCELLANEOUS PROVISIONS

SEC. 401. REPEAL OF CARRYOVER BASIS.

(a) IN GENERAL.—Subsections (a), (d), and (e) of section 2005 of the Tax Reform Act of 1976 (relating to carryover basis), and subsection (a), paragraphs (2) through (9) of subsection (c), and paragraphs (1) and (3) of subsection (r) of section 702 of the Revenue Act of 1978, and the amendments made by those subsections or paragraphs are hereby repealed. 26 USC 306 and note, 691, 1001, 1014, 1016, 1023, 1024, 1223, 1246, 6039A, 6698A.

(b) REVIVAL OF PRIOR LAW.—Except to the extent necessary to carry out subsection (d), the Internal Revenue Code of 1954 shall be applied and administered as if the provisions repealed by subsection (a), and the amendments made by those provisions, had not been enacted. 26 USC 1023 note.

(c) CONFORMING CHANGES.—

26 USC 1016.

(1) Subsection (c) of section 1016 (relating to increase in basis in case of certain involuntary conversions) is amended to read as follows:

"(c) INCREASE IN BASIS IN THE CASE OF CERTAIN INVOLUNTARY CONVERSIONS.—

"(1) IN GENERAL.—If—

"(A) there is a compulsory or involuntary conversion (within the meaning of section 1033) of any property, and

26 USC 1033.

"(B) an additional estate tax is imposed on such conversion under section 2032A(c),

26 USC 2032A.

then the adjusted basis of such property shall be increased by the amount of such tax.

"(2) TIME ADJUSTMENT MADE.—Any adjustment under paragraph (1) shall be deemed to have occurred immediately before the compulsory or involuntary conversion.".

(2)(A) Section 1040 (relating to satisfaction of a pecuniary bequest) is amended to read as follows:

26 USC 1040.

"SEC. 1040. USE OF FARM, ETC., REAL PROPERTY TO SATISFY PECUNIARY BEQUEST.

"(a) GENERAL RULE.—If the executor of the estate of any decedent satisfies the right of a qualified heir (within the meaning of section 2032A(e)(1)) to receive a pecuniary bequest with property with respect to which an election was made under section 2032A, then gain on such exchange shall be recognized to the estate only to the extent that, on the date of such exchange, the fair market value of such property exceeds the value of such property for purposes of chapter 11 (determined without regard to section 2032A).

"(b) SIMILAR RULE FOR CERTAIN TRUSTS.—To the extent provided in regulations prescribed by the Secretary, a rule similar to the rule provided in subsection (a) shall apply where—

"(1) by reason of the death of the decedent, a qualified heir has a right to receive from a trust a specific dollar amount which is the equivalent of a pecuniary bequest, and

"(2) the trustee of the trust satisfies such right with property with respect to which an election was made under section 2032A.

"(c) BASIS OF PROPERTY ACQUIRED IN EXCHANGE DESCRIBED IN SUBSECTION (a) OR (b).—The basis of property acquired in an exchange with respect to which gain realized is not recognized by reason of subsection (a) or (b) shall be the basis of such property immediately before the exchange increased by the amount of the gain recognized to the estate or trust on the exchange."

(B) The item relating to section 1040 in the table of sections for part III of subchapter O of chapter 1 is amended to read as follows:

"Sec. 1040. Use of farm, etc., real property to satisfy pecuniary bequest."

26 USC 2614.

(3) The second sentence of section 2614(a) (relating to special rules for generation-skipping transfers) is amended to read as follows: "If property is transferred in a generation-skipping transfer subject to tax under this chapter which occurs at the same time as, or after, the death of the deemed transferor, the basis of such property shall be adjusted in a manner similar to the manner provided under section 1014(a)."

26 USC 1014 note.

(d) ELECTION OF CARRYOVER BASIS RULES BY CERTAIN ESTATES.—Notwithstanding any other provision of law, in the case of a decedent dying after December 31, 1976, and before November 7, 1978, the executor (within the meaning of section 2203 of the Internal Revenue Code of 1954) of such decedent's estate may irrevocably elect, within

26 USC 2203.

120 days following the date of enactment of this Act and in such manner as the Secretary of the Treasury or his delegate shall prescribe, to have the basis of all property acquired from or passing from the decedent (within the meaning of section 1014(b) of the Internal Revenue Code of 1954) determined for all purposes under such Code as though the provisions of section 2005 of the Tax Reform Act of 1976 (as amended by the provisions of section 702(c) of the Revenue Act of 1978) applied to such property acquired or passing from such decedent. 26 USC 1014. 90 Stat. 1872. 92 Stat. 2925.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply in respect of decedents dying after December 31, 1976. 26 USC 1023 note.

SEC. 402. DISAPPROVAL OF PRESIDENTIAL ACTIONS ADJUSTING OIL IMPORTS.

Section 232 of the Trade Expansion Act of 1962 (19 U.S.C. 1862) is amended by adding at the end thereof the following new subsection:

"(e)(1) An action taken by the President under subsection (b) to adjust imports of petroleum or petroleum products shall cease to have force and effect upon the enactment of a disapproval resolution, provided for in paragraph (2), relating to that action.

"(2)(A) This paragraph is enacted by the Congress—

"(i) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedures to be followed in that House in the case of disapproval resolutions and such procedures supersede other rules only to the extent that they are inconsistent therewith; and

"(ii) with the full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as any other rule of that House.

"(B) For purposes of this subsection, the term 'disapproval resolution' means only a joint resolution of either House of Congress the matter after the resolving clause of which is as follows: 'That the Congress disapproves the action taken under section 232 of the Trade Expansion Act of 1962 with respect to petroleum imports under ———— dated ————.', the first blank space being filled with the number of the proclamation, Executive order, or other Executive act issued under the authority of subsection (b) of such section 232 for purposes of adjusting imports of petroleum or petroleum products and the second blank being filled with the appropriate date. "Disapproval resolution." 19 USC 1862.

"(C)(i) All disapproval resolutions introduced in the House of Representatives shall be referred to the Committee on Ways and Means and all disapproval resolutions introduced in the Senate shall be referred to the Committee on Finance. Resolutions, referral to congressional committees.

"(ii) No amendment to a disapproval resolution shall be in order in either the House of Representatives or the Senate, and no motion to suspend the application of this clause shall be in order in either House nor shall it be in order in either House for the Presiding Officer to entertain a request to suspend the application of this clause by unanimous consent."

SEC. 403. QUALIFIED LIQUIDATIONS OF LIFO INVENTORIES.

(a) TREATMENT OF QUALIFIED LIQUIDATIONS.—

(1) IN GENERAL.—Subpart D of part II of subchapter E of chapter 1 (relating to inventories) is amended by adding at the end thereof the following new section:

26 USC 473.

"SEC. 473. QUALIFIED LIQUIDATIONS OF LIFO INVENTORIES.

"(a) GENERAL RULE.—If, for any liquidation year—

"(1) there is a qualified liquidation of goods which the taxpayer inventories under the LIFO method, and

"(2) the taxpayer elects to have the provisions of this section apply with respect to such liquidation,

then the gross income of the taxpayer for such taxable year shall be adjusted as provided in subsection (b).

"(b) ADJUSTMENT FOR REPLACEMENTS.—If the liquidated goods are replaced (in whole or in part) during any replacement year and such replacement is reflected in the closing inventory for such year, then the gross income for the liquidation year shall be—

"(1) decreased by an amount equal to the excess of—

"(A) the aggregate replacement cost of the liquidated goods so replaced during such year, over

"(B) the aggregate cost of such goods reflected in the opening inventory of the liquidation year, or

"(2) increased by an amount equal to the excess of—

"(A) the aggregate cost reflected in such opening inventory of the liquidated goods so replaced during such year, over

"(B) such aggregate replacement cost.

"(c) QUALIFIED LIQUIDATION DEFINED.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified liquidation' means—

"(A) a decrease in the closing inventory of the liquidation year from the opening inventory of such year, but only if

"(B) the taxpayer establishes to the satisfaction of the Secretary that such decrease is directly and primarily attributable to a qualified inventory interruption.

"(2) QUALIFIED INVENTORY INTERRUPTION DEFINED.—

"(A) IN GENERAL.—The term 'qualified inventory interruption' means a regulation, request, or interruption described in subparagraph (B) but only to the extent provided in the notice published pursuant to subparagraph (B).

"(B) DETERMINATION BY SECRETARY.—Whenever the Secretary, after consultation with the appropriate Federal officers, determines—

"(i) that—

"(I) any Department of Energy regulation or request with respect to energy supplies, or

"(II) any embargo, international boycott, or other major foreign trade interruption,

has made difficult or impossible the replacement during the liquidation year of any class of goods for any class of taxpayers, and

"(ii) that the application of this section to that class of goods and taxpayers is necessary to carry out the purposes of this section,

Publication in Federal Register.

he shall publish a notice of such determinations in the Federal Register, together with the period to be affected by such notice.

"(d) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

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"(1) LIQUIDATION YEAR.—The term 'liquidation year' means the taxable year in which occurs the qualified liquidation to which this section applies.

"(2) REPLACEMENT YEAR.—The term 'replacement year' means any taxable year in the replacement period; except that such term shall not include any taxable year after the taxable year in which replacement of the liquidated goods is completed.

"(3) REPLACEMENT PERIOD.—The term 'replacement period' means the shorter of—

"(A) the period of the 3 taxable years following the liquidation year, or

"(B) the period specified by the Secretary in a notice published in the Federal Register with respect to that qualified inventory interruption.

Any period specified by the Secretary under subparagraph (B) may be modified by the Secretary in a subsequent notice published in the Federal Register.

"(4) LIFO METHOD.—The term 'LIFO method' means the method of inventorying goods described in section 472. 26 USC 472.

"(5) ELECTION.—

"(A) IN GENERAL.—An election under subsection (a) shall be made subject to such conditions, and in such manner and form and at such time, as the Secretary may prescribe by regulation.

"(B) IRREVOCABLE ELECTION.—An election under this section shall be irrevocable and shall be binding for the liquidation year and for all determinations for prior and subsequent taxable years insofar as such determinations are affected by the adjustments under this section.

"(e) REPLACEMENT; INVENTORY BASIS.—For purposes of this chapter—

"(1) REPLACEMENTS.—If the closing inventory of the taxpayer for any replacement year reflects an increase over the opening inventory of such goods for such year, the goods reflecting such increase shall be considered, in the order of their acquisition, as having been acquired in replacement of the goods most recently liquidated (whether or not in a qualified liquidation) and not previously replaced.

"(2) AMOUNT AT WHICH REPLACEMENT GOODS TAKEN INTO ACCOUNT.—In the case of any qualified liquidation, any goods considered under paragraph (1) as having been acquired in replacement of the goods liquidated in such liquidation shall be taken into purchases and included in the closing inventory of the taxpayer for the replacement year at the inventory cost basis of the goods replaced.

"(f) SPECIAL RULES FOR APPLICATION OF ADJUSTMENTS.—

"(1) PERIOD OF LIMITATIONS.—If—

"(A) an adjustment is required under this section for any taxable year by reason of the replacement of liquidated goods during any replacement year, and

"(B) the assessment of a deficiency, or the allowance of a credit or refund of an overpayment of tax attributable to such adjustment, for any taxable year, is otherwise prevented by the operation of any law or rule of law (other than section 7122, relating to compromises), 26 USC 7122.

then such deficiency may be assessed, or credit or refund allowed, within the period prescribed for assessing a deficiency or allowing a credit or refund for the replacement year if a notice for

deficiency is mailed, or claim for refund is filed, within such period.

"(2) INTEREST.—Solely for purposes of determining interest on any overpayment or underpayment attributable to an adjustment made under this section, such overpayment or underpayment shall be treated as an overpayment or underpayment (as the case may be) for the replacement year.

26 USC 472. "(g) COORDINATION WITH SECTION 472.—The Secretary shall prescribe such regulations as may be necessary to coordinate the provisions of this section with the provisions of section 472."

(2) CLERICAL AMENDMENT.—The table of sections for subpart D of part II of subchapter E of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 473. Qualified liquidations of LIFO inventories."

26 USC 473 note. (3) EFFECTIVE DATE.—The amendments made by paragraphs (1) and (2) shall apply to qualified liquidations (within the meaning of section 473(c) of the Internal Revenue Code of 1954) in taxable years ending after October 31, 1979.

Ante, p. 302.

(b) RECOGNITION OF GAIN ON CERTAIN DISPOSITIONS OF LIFO INVENTORIES.—

(1) AMENDMENT OF SECTION 336.—Section 336 (relating to general rule for liquidations) is amended to read as follows:

26 USC 336. "SEC. 336. DISTRIBUTIONS OF PROPERTY IN LIQUIDATION.

"(a) GENERAL RULE.—Except as provided in subsection (b) of this 26 USC 453. section and in section 453(d) (relating to disposition of installment obligations), no gain or loss shall be recognized to a corporation on the distribution of property in partial or complete liquidation.

"(b) LIFO INVENTORY.—

"(1) IN GENERAL.—If a corporation inventorying goods under the LIFO method distributes inventory assets in partial or complete liquidation, then the LIFO recapture amount with respect to such assets shall be treated as gain to the corporation recognized from the sale of such inventory assets.

"(2) EXCEPTION WHERE BASIS DETERMINED UNDER SECTION 334(b)(1).—Paragraph (1) shall not apply to any liquidation 26 USC 334. 26 USC 332. under section 332 for which the basis of property received is determined under section 334(b)(1).

"(3) LIFO RECAPTURE AMOUNT.—For purposes of this subsection, the term 'LIFO recapture amount' means the amount (if any) by which—

26 USC 471. "(A) the inventory amount of the inventory assets under the first-in, first-out method authorized by section 471, exceeds

"(B) the inventory amount of such assets under the LIFO method.

"(4) DEFINITIONS.—For purposes of this subsection—

26 USC 472. "(A) LIFO METHOD.—The term 'LIFO method' means the method authorized by section 472 (relating to last-in, first-out inventories).

"(B) OTHER DEFINITIONS.—The term 'inventory assets' has the meaning given to such term by subparagraph (A) of 26 USC 311. section 311(b)(2), and the term 'inventory amount' has the meaning given to such term by subparagraph (B) of section 311(b)(2) (as modified by paragraph (3) of section 311(b))."

26 USC 337. (2) SECTION 337 LIQUIDATIONS.—

(A) Section 337 (relating to gain or loss on sales or exchanges in connection with certain liquidations) is

amended by adding at the end thereof the following new subsection:

"(f) SPECIAL RULE FOR LIFO INVENTORIES.—

"(1) IN GENERAL.—In the case of a corporation inventorying goods under the LIFO method, this section shall apply to gain from the sale or exchange of inventory assets (which under subsection (b)(2) constitute property) only to the extent that such gain exceeds the LIFO recapture amount with respect to such assets.

"(2) DEFINITIONS.—The terms used in this subsection shall have the same meaning as when used in section 336(b). *Ante*, p. 304.

"(3) CROSS REFERENCE.—

"For treatment of gain from the sale or exchange of an installment obligation as gain resulting from the sale or exchange of the property in respect of which the obligation was received, see the last sentence of section 453(d)(1)."

(B) Subparagraph (B) of section 453(d)(4) (relating to liquidations to which section 337 applies) is amended by adding at the end thereof the following new sentence: "In the case of any installment obligation which would have met the requirements of clauses (i) and (ii) of the first sentence of this subparagraph but for section 337(f), gain shall be recognized to such corporation by reason of such distribution only to the extent gain would have been recognized under section 337(f) if such corporation had sold or exchanged such installment obligation on the day of such distribution." 26 USC 453. 26 USC 337. *Ante*, p. 304.

(3) EFFECTIVE DATE.—The amendments made by paragraphs (1) and (2) shall apply to distributions and dispositions pursuant to plans of liquidation adopted after December 31, 1981. 26 USC 336 note.

SEC. 404. EXEMPTION OF CERTAIN INTEREST INCOME FROM TAX.

(a) IN GENERAL.—Section 116 (relating to partial exclusion of dividends received by individuals) is amended to read as follows:

"SEC. 116. PARTIAL EXCLUSION OF DIVIDENDS AND INTEREST RECEIVED BY INDIVIDUALS. 26 USC 116.

"(a) EXCLUSION FROM GROSS INCOME.—Gross income does not include the sum of the amounts received during the taxable year by an individual as—

"(1) a dividend from a domestic corporation, or

"(2) interest.

"(b) LIMITATIONS.—

"(1) MAXIMUM DOLLAR AMOUNT.—The aggregate amount excluded under subsection (a) for any taxable year shall not exceed $200 ($400 in the case of a joint return under section 6013). 26 USC 6013.

"(2) CERTAIN DIVIDENDS EXCLUDED.—Subsection (a)(1) shall not apply to any dividend from a corporation which, for the taxable year of the corporation in which the distribution is made, or for the next preceding taxable year of the corporation, is a corporation exempt from tax under section 501 (relating to certain charitable, etc., organizations) or section 521 (relating to farmers' cooperative associations). 26 USC 501. 26 USC 521.

"(c) DEFINITIONS; SPECIAL RULES.—For purposes of this section—

"(1) INTEREST DEFINED.—The term 'interest' means—

"(A) interest on deposits with a bank (as defined in section 581),

"(B) amounts (whether or not designated as interest) paid, in respect of deposits, investment certificates, or withdrawable or repurchasable shares, by—

"(i) a mutual savings bank, cooperative bank, domestic building and loan association, industrial loan association or bank, or credit union, or

"(ii) any other savings or thrift institution which is chartered and supervised under Federal or State law, the deposits or accounts in which are insured under Federal or State law or which are protected and guaranteed under State law,

"(C) interest on—

"(i) evidences of indebtedness (including bonds, debentures, notes, and certificates) issued by a domestic corporation in registered form, and

"(ii) to the extent provided in regulations prescribed by the Secretary, other evidences of indebtedness issued by a domestic corporation of a type offered by corporations to the public,

"(D) interest on obligations of the United States, a State, or a political subdivision of a State (not excluded from gross income of the taxpayer under any other provision of law), and

"(E) interest attributable to participation shares in a trust established and maintained by a corporation established pursuant to Federal law.

"(2) DISTRIBUTIONS FROM REGULATED INVESTMENT COMPANIES AND REAL ESTATE INVESTMENT TRUSTS.—Subsection (a) shall apply with respect to any dividend from—

Post, p. 307. "(A) a regulated investment company, subject to the limitations provided in section 854(b)(2), or

Post, p. 307. "(B) real estate investment trust, subject to the limitations provided in section 857(c).

"(3) CERTAIN NONRESIDENT ALIENS INELIGIBLE FOR EXCLUSION.—In the case of a nonresident alien individual, subsection (a) shall apply only—

26 USC 871. "(A) in determining the tax imposed for the taxable year pursuant to section 871(b)(1) and only in respect of dividends and interest which are effectively connected with the conduct of a trade or business within the United States, or

26 USC 877. "(B) in determining the tax imposed for the taxable year pursuant to section 877(b)."

(b) CLERICAL AND CONFORMING AMENDMENTS.—

(1) The table of sections for part III of subchapter B of chapter 1 is amended by inserting "and interest" after "dividends" in the item relating to section 116.

Ante, p. 305.

26 USC 265. (2) The first sentence of paragraph (2) of section 265 (relating to interest) is amended by inserting after "subtitle" the following: ", or to purchase or carry obligations or shares, or to make deposits or other investments, the interest on which is described in section 116(c) to the extent such interest is excludable from gross income under section 116".

26 USC 584. (3) Paragraph (2) of section 584(c) (relating to income of participants in fund) is amended by inserting "or interest" after "dividends" each place it appears in the caption and text thereof.

26 USC 643. (4) Paragraph (7) of section 643(a) (relating to definition of distributable net income) is amended by inserting "or interest" after "dividends" each place it appears in the caption or text thereof.

(5) Paragraph (5) of section 702(a) (relating to income and credits of partners) is amended by inserting "or interest" after "dividends". 26 USC 702.

(6) Subsection (b) of section 854 (relating to other dividends) is amended— 26 USC 854.

(A) by inserting "AND TAXABLE INTEREST" in the caption after "DIVIDENDS",

(B) by striking out the caption of paragraph (1) and inserting in lieu thereof "DEDUCTION UNDER SECTION 243.—",

(C) by striking out "the exclusion under section 116 and" in paragraph (1),

(D) by redesignating paragraphs (2) and (3) as (3) and (4),

(E) by inserting after paragraph (1) the following new paragraph:

"(2) EXCLUSION UNDER SECTION 116.—In the case of a dividend (other than a dividend described in subsection (a)) received from a regulated investment company— *Ante*, p. 305.

"(A) which meets the requirements of section 852(a) for the taxable year in which it paid the dividend, 26 USC 852.

"(B) the aggregate interest received by which during the taxable year is less than 75 percent of its gross income, and

"(C) the aggregate dividends received by which during the taxable year is less than 75 percent of its gross income, then, in computing the exclusion under section 116, there shall be taken into account only that portion of the dividend which bears the same ratio to the amount of such dividend as the sum of the aggregate dividends received and aggregate interest received bears to gross income. For purposes of the preceding sentence, gross income and aggregate interest received shall each be reduced by so much of the deduction allowable by section 163 for the taxable year as does not exceed aggregate interest received for the taxable year." 26 USC 163.

(F) by striking out "section 116(b)" in subparagraph (B) of paragraph (4) (as redesignated by subparagraph (D) of this paragraph) and inserting in lieu thereof "section 116(b)(2)",

(G) by striking out "section 116(c)" in subparagraph (B) of paragraph (4) (as so redesignated) and inserting in lieu thereof "section 116(c)(2)", and

(H) by adding at the end of paragraph (4) (as redesignated) the following new subparagraph:

"(C) The term 'aggregate interest received' includes only interest described in section 116(c)(1)." "Aggregate interest received."

(7) The table of sections for part I of subchapter M of chapter 1 is amended by inserting "and taxable interest" after "dividends" in the item relating to section 854.

(8) Subsection (c) of section 857 (relating to restrictions applicable to dividends received from real estate investment trusts) is amended to read as follows: 26 USC 857.

"(c) LIMITATIONS APPLICABLE TO DIVIDENDS RECEIVED FROM REAL ESTATE INVESTMENT TRUSTS.—

"(1) CAPITAL GAIN DIVIDEND.—For purposes of section 116 (relating to exclusion for dividends and interest received by individuals), a capital gain dividend (as defined in subsection (b)(3)(C)) received from a real estate investment trust shall not be considered a dividend.

"(2) OTHER DIVIDENDS.—In the case of a dividend received from a real estate investment trust (other than a dividend described in paragraph (1)), if—

"(A) the real estate investment trust meets the requirements of this part for the taxable year during which it paid the dividend, and

"(B) the aggregate interest received by the real estate investment trust for the taxable year is less than 75 percent of its gross income,

Ante, p. 305. then, in computing the exclusion under section 116, there shall be taken into account only that portion of the dividend which bears the same ratio to the amount of such dividend as aggregate interest received bears to gross income.

"(3) ADJUSTMENTS TO GROSS INCOME AND AGGREGATE INTEREST RECEIVED.—For purposes of paragraph (2)—

"(A) gross income does not include the net capital gain,

"(B) gross income and aggregate interest received shall each be reduced by so much of the deduction allowable by

26 USC 163. section 163 for the taxable year (other than for interest on mortgages on real property owned by the real estate investment trust) as does not exceed aggregate interest received for the taxable year, and

"(C) gross income shall be reduced by the sum of the taxes

26 USC 857. imposed by paragraphs (4), (5), and (6) of section 857(b).

"(4) AGGREGATE INTEREST RECEIVED.—For purposes of this subsection, the term 'aggregate interest received' means only interest described in section 116(c)(1).

"(5) NOTICE TO SHAREHOLDERS.—The amount of any distribution by a real estate investment trust which may be taken into account as a dividend for purposes of the exclusion under section 116 shall not exceed the amount so designated by the trust in a written notice to its shareholders mailed not later than 45 days after the close of its taxable year.

"(6) CROSS REFERENCE.—

"For restriction on dividends received by a corporation, see section 243(c)(2)."

26 USC 116 note. (c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to taxable years beginning after December 31, 1980, and before January 1, 1983.

Approved April 2, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 96-304 (Comm. on Ways and Means) and No. 96-817 (Comm. of Conference).
SENATE REPORT No. 96-394 (Comm. on Finance).
CONGRESSIONAL RECORD:
Vol. 125 (1979): June 28, considered and passed House.
Nov. 15, 16, 19, 20, 26-30, Dec. 3-7, 10-15, 17, considered and passed Senate, amended.
Vol. 126 (1980): Mar. 12, 13, House agreed to conference report.
Mar. 19-21, 24-27, Senate agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:
Vol. 16, No. 14 (1980): Apr. 2, Presidential statement.

Public Law 96-224
96th Congress

Joint Resolution

Designating the week of October 5 through October 11, 1980, as "National Diabetes Week".

Apr. 2, 1980
[H.J. Res. 463]

Whereas diabetes kills more Americans than all other diseases except cancer and cardiovascular diseases; and

Whereas ten million Americans suffer from diabetes and $5,300,000,000 annually are used for health care costs, disability payments, and lost wage costs due to diabetes; and

Whereas a national awareness of the diabetes problem may stimulate interest and concern leading to increased research and eventually a cure for diabetes: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of October 5 through October 11, 1980, is designated as "National Diabetes Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe that week with appropriate ceremonies and activities.

National Diabetes Week. Designation.

Approved April 2, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-794 (Comm. on Post Office and Civil Service).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Mar. 3, considered and passed House.
Mar. 20, considered and passed Senate in lieu of S.J. Res. 128.

Public Law 96-225
96th Congress

Joint Resolution

Apr. 3, 1980
[H.J. Res. 520]

To extend by sixty days the expiration date of the Defense Production Act of 1950.

Defense Production Act of 1950, extension.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the first sentence of section 717(a) of the Defense Production Act of 1950 (50 U.S.C. App. 2166(a)) is amended by striking out "March 28, 1980" and inserting in lieu thereof "May 27, 1980".

Approved April 3, 1980.

LEGISLATIVE HISTORY:

CONGRESSIONAL RECORD, Vol. 126 (1980):
Mar. 28, considered and passed House.
Apr. 1, considered and passed Senate.

Public Law 96-226
96th Congress

An Act

To improve budget management and expenditure control by revising certain provisions relating to the Comptroller General and the Inspectors General of the Departments of Energy and Health, Education, and Welfare, and for other purposes.

Apr. 3, 1980
[H.R. 24]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "General Accounting Office Act of 1980".

General Accounting Office Act of 1980.
31 USC 1 note.

TITLE I—GENERAL ACCOUNTING OFFICE PROVISIONS

UNVOUCHERED EXPENDITURES

SEC. 101. Section 117 of the Budget and Accounting Procedures Act of 1950 (31 U.S.C. 67) is amended by adding at the end thereof the following new subsection:

"(f)(1) Notwithstanding any provision of law which permits an expenditure to be accounted for solely on the approval, authorization, or certificate of the President of the United States or an official of an executive agency, the Comptroller General shall have access to such books, documents, papers, records, and other information relating to any such expenditure as may be necessary to enable him to determine whether the expenditure was, in fact, actually made and whether such expenditure was authorized by law. The provisions of this paragraph may be superseded only by a provision of law enacted after the date of enactment of this paragraph which specifically repeals or modifies the provisions of this paragraph. In the case of an expenditure under section 102, 103, 105(d) (1), (3), or (5), or 106(b) (2) or (3), of title 3, United States Code, the provisions of sections 102, 103, 105(d), and 106(b) of such title shall govern the examination of such expenditures by the Comptroller General in lieu of the provisions of this subsection.

Access to records and information.

"(2) With respect to any expenditure accounted for solely on the approval, authorization, or certificate of the President of the United States or an official of an executive agency and notwithstanding any provision of law, no officer or employee of the General Accounting Office may release the findings of its audit of such expenditure or disclose any books, documents, papers, records, or other information concerning such expenditure to anyone not an officer or employee of the General Accounting Office, except to the President or the head of the agency concerned or, in the case of unresolved discrepancies, to the Committee on Governmental Affairs of the Senate, the Committee on Government Operations of the House of Representatives, and to the Committees of the House and the Senate having legislative or appropriations oversight with respect to the expenditure in question.

Information disclosure, prohibition.

"(3)(A) Nothing in this subsection shall be construed as affecting the authority contained in section 8(b) of the Central Intelligence Agency Act of 1949.

50 USC 403j.

Foreign intelligence or counter-intelligence activities.

"(B) The President may exempt from the provisions of paragraph (1) of this subsection financial transactions which relate to sensitive foreign intelligence or foreign counterintelligence activities, or sensitive law enforcement investigations if an audit proceeding pursuant to the provisions of paragraph (1) of this subsection would expose the identifying details of an active investigation or endanger the safety of investigative or domestic intelligence sources involved in such law enforcement investigations. An exemption under this subparagraph may be given for a class or category of financial transactions.

Exempted transactions, review.
50 USC 403j.

"(C) Information concerning financial transactions taken pursuant to section 8(b) of the Central Intelligence Agency Act of 1949 and information concerning financial transactions exempted from the provisions of paragraph (1) pursuant to subparagraph (B) shall be reviewable by the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate.

Report to congressional committees.

"(4) Not later than sixty days after the beginning of each fiscal year starting on or after October 1, 1980, the Director of the Office of Management and Budget shall submit to the chairman of the Committees on the Budget and the Committees on Appropriations of the Senate and the House of Representatives, the Committee on Governmental Affairs of the Senate, the Committee on Government Operations of the House of Representatives, and to the Comptroller General, a report listing every account potentially subject to audit by the Comptroller General under paragraph (1).".

ENFORCEMENT OF ACCESS TO RECORDS

SEC. 102. Section 313 of the Budget and Accounting Act, 1921 (31 U.S.C. 54), is amended by designating the existing paragraph as subsection (a) and by adding at the end the following new subsections:

Written request.

"(b)(1) When access to any books, documents, papers, or records of any department or establishment is not made available within a reasonable period of time, the Comptroller General in his discretion may make a written request to the head of the department or establishment concerned. Any such request shall set forth any authority in addition to subsection (a) for such access and the reasons such access is desired. The head of the department or establishment concerned shall have a period of twenty days from the date of receipt to respond to the written request of the Comptroller General. The response shall describe any books, documents, papers, or records withheld and the reasons therefor. If within such twenty-day period full access to such books, documents, papers, or records has not been afforded the Comptroller General or any of his designated assistants or employees, the Comptroller General may file a written report of the matter with the President of the United States, the Director of the Office of Management and Budget, the Attorney General, the head of the department or establishment concerned, and with the Speaker of the House of Representatives and the President of the Senate.

Report.

Withheld material.

"(2) Subject to subsection (d) the Comptroller General, through any attorney designated by him in writing, may, after twenty calendar days after the filing of a written report under paragraph (1), apply to the United States District Court for the District of Columbia for any order requiring the head of the department or establishment concerned to produce the material withheld. The Attorney General is authorized to represent the defendant official in such proceedings.

Any failure to obey an order of the court under this subsection may be treated by the court as a contempt thereof.

Subpena of material.

"(c)(1) Subject to subsection (d), the Comptroller General may require by subpena the production of books, records, correspondence, memoranda, papers, and documents of contractors, subcontractors, or other non-Federal persons to which he has access by law or by agreement of the non-Federal person from whom access is sought. Subpenas may be issued under the signature of the Comptroller General and shall identify the material sought and the authority on which access is based. Service of a subpena issued under this subsection may be made by anyone authorized by the Comptroller General (A) by delivering a copy thereof to the person named therein, or (B) by mailing a copy thereof by certified or registered mail, return receipt requested, addressed to such person at his residence, or principal place of business. A verified return by the person so serving the subpena setting forth the manner of service or in the case of service by certified or registered mail, the return post office receipt signed by the person so served, shall be proof of service.

Refusal to obey subpena.

"(2) In the case of contumacy or refusal to obey a subpena issued under paragraph (1) of this subsection, by any person who resides, is found, or transacts business within the jurisdiction of any district court of the United States, such court, upon application made by the Comptroller General through any attorney designated by him in writing, shall have jurisdiction to issue to such person an order requiring such person to produce the matter requested. Any failure of any such person to obey such order of the court may be treated by the court as a contempt thereof.

Exempted material.

"(d) The Comptroller General may not bring an action under subsection (b) for an order or issue a subpena under subsection (c) requiring the production of material—

"(1) if such material relates to activities designated by the President as being foreign intelligence or foreign counterintelligence activities;

"(2) if such material is specifically exempted from disclosure to the Comptroller General by statute provided that such statute (A) requires that the material be withheld from the Comptroller General in such a manner as to leave no discretion on the issue, or (B) establishes particular criteria for withholding from the Comptroller General or refers to particular types of matters to be withheld from the Comptroller General; or

"(3) if the President or the Director of the Office of Management and Budget within twenty days after the filing of a report under subsection (b)(1), certifies in writing to the Comptroller General, the Speaker of the House of Representatives, and the President of the Senate, that (A) such material consists of matters which could be withheld from disclosure under section 552(b)(5) or 552(b)(7), of title 5, United States Code and (B) the disclosure of such material to the Comptroller General could reasonably be expected to substantially impair the operations of the Federal Government. Such certification shall be nondelegable by the President or by the Director of the Office of Management and Budget and shall be accompanied by a full explanation of the rationale therefor.

Confidentiality of information.

"(e) Any written information, books, documents, papers, or records made available to the Comptroller General pursuant to this section shall be subject to the same level of confidentiality as is required of the agency from which obtained. The officers and employees of the General Accounting Office shall be subject to the same penalties

prescribed by statute for unauthorized disclosure or use as the officers or employees of the agency from which such material was obtained. Information described in section 552(b)(6) of title 5 of the United States Code obtained by the Comptroller General shall be maintained in a manner designed to prevent unwarranted invasions of personal privacy.

"(f) Nothing in this section shall be construed as authority to withhold information from Congress.".

AVAILABILITY OF DRAFT REPORTS

SEC. 103. Section 312 of the Budget and Accounting Act, 1921 (31 U.S.C. 53) is amended by adding at the end thereof the following new subsection:

Agency comment period.

"(f)(1) No portion of any draft report prepared by the General Accounting Office shall be submitted to any agency for comment thereon for a period in excess of thirty days unless the Comptroller General determines, upon a showing by such agency, that a longer period is necessary and is likely to result in improvement in the accuracy of such report.

"(2) Failure of an agency to return comments by the conclusion of the comment period established under paragraph (1) of this subsection shall not result in the delayed delivery of any such report.

"(3) Whenever an agency is requested to comment on a draft report, the Comptroller General shall—

"(A) in the case of any report initiated, pursuant to subsection (b) of this section or otherwise, at the request of either House of Congress or by any committee or member thereof, make such draft report available on request to such House, committee, or member; or

"(B) in the case of any other report, make such draft report available on request to the Committee on Governmental Affairs of the Senate and to the Committee on Government Operations of the House.

Statement of changes.

"(4) The Comptroller General shall prepare and issue with the final version of any report of the General Accounting Office a statement of (A) any significant changes, from any prior drafts of such report, in the findings, conclusions, or recommendations which were based on an agency's comments on such a draft, and (B) the reasons for making such changes.

Classified information.

"(5) Procedures followed pursuant to this subsection shall be subject to statutory and Executive order guidelines for the handling and storage of classified information and material.".

APPOINTMENT OF THE COMPTROLLER GENERAL AND THE DEPUTY COMPTROLLER GENERAL

SEC. 104. (a) Section 302 of the Budget and Accounting Act, 1921 (31 U.S.C. 42) is amended by inserting "(a)" before "There" and by adding at the end thereof the following new subsection:

Commission, establishment.

"(b)(1) Whenever, after the date of enactment of this subsection, a vacancy occurs in the Office of Comptroller General or in the Office of Deputy Comptroller General, there is established a commission to recommend individuals to the President for appointment to the vacant office. Any such commission shall consist of—

Membership.

"(A) the Speaker of the House of Representatives,

"(B) the President pro tempore of the Senate,

"(C) the majority and minority leaders of the House of Representatives and the Senate,

"(D) the chairman and ranking minority member of the Committee on Government Operations of the House of Representatives and of the Committee on Governmental Affairs of the Senate, and

"(E) in the case of a vacancy in the Office of Deputy Comptroller General, the Comptroller General of the United States.

"(2) Any commission established under paragraph (1) shall submit to the President for consideration the names of not less than three persons for the Office of Comptroller General. The President, within his discretion, may request that additional names be submitted.".

(b)(1) The first paragraph of section 303 of such Act (31 U.S.C. 43) is amended by striking out the first sentence and inserting in lieu thereof the following: "Except as otherwise provided in this section, the Comptroller General shall hold office for fifteen years and the Deputy Comptroller General shall hold office from the date of his appointment until the date on which an individual is appointed to fill a vacancy in the Office of Comptroller General. The Deputy Comptroller General may continue to serve until his successor is appointed.". Terms of office.

(2) The amendment made by paragraph (1) shall not apply to the person occupying the position of Deputy Comptroller General on the date of enactment of this Act, but shall apply with respect to any vacancy in such position occurring on or after such date, and shall apply to any person appointed to fill such a vacancy. 31 USC 43 note.

TITLE II—CONFORMING AMENDMENTS WITH RESPECT TO THE INSPECTORS GENERAL OF THE DEPARTMENTS OF ENERGY AND HEALTH, EDUCATION, AND WELFARE

AMENDMENT TO THE ACT OF OCTOBER 15, 1976

SEC. 201. Section 203(b) of the Act of October 15, 1976 (90 Stat. 2430; 42 U.S.C. 3523), is amended to read as follows:

"(b) In carrying out the responsibilities specified in subsection (a)(1), the Inspector General shall—

"(1) comply with standards established by the Comptroller General of the United States for audits of Federal establishments, organizations, programs, activities, and functions;

"(2) establish guidelines for determining the appropriate use of non-Federal auditors;

"(3) take appropriate steps to assure that any work performed by non-Federal auditors complies with the standards established by the Comptroller General as described in paragraph (1); and

"(4) shall report expeditiously to the Attorney General whenever the Inspector General has reasonable grounds to believe there has been a violation of Federal criminal law.". Report to Attorney General.

AMENDMENT TO THE DEPARTMENT OF ENERGY ORGANIZATION ACT

SEC. 202. Section 208 of the Department of Energy Organization Act (42 U.S.C. 7138) is amended by adding at the end thereof the following new subsections:

"(h) In carrying out the responsibilities specified in subsection (b)(1), the Inspector General shall—

"(1) comply with standards established by the Comptroller General of the United States for audits of Federal establishments, organizations, programs, activities, and functions;

"(2) establish guidelines for determining the appropriate use of non-Federal auditors; and

"(3) take appropriate steps to assure that any work performed by non-Federal auditors complies with the standards established by the Comptroller General as described in paragraph (1).

"(i) In carrying out his duties and responsibilities under this section, the Inspector General shall give particular regard to the activities of the Comptroller General with a view toward avoiding duplication and insuring effective coordination and cooperation.

Report to Attorney General.

"(j) In carrying out his duties and responsibilities under this section, the Inspector General shall report expeditiously to the Attorney General whenever the Inspector General has reasonable grounds to believe there has been a violation of Federal criminal law.".

Approved April 3, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-425 (Comm. on Government Operations).
SENATE REPORT No. 96-570 accompanying S. 1878 (Comm. on Governmental Affairs).
CONGRESSIONAL RECORD:
Vol. 125 (1979): Oct. 29, considered and passed House.
Vol. 126 (1980): Feb. 28, considered and passed Senate, amended, in lieu of S. 1878.
Mar. 19, House concurred in Senate amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:
Vol. 16, No. 14 (1980): Apr. 3, Presidential statement.

Public Law 96-227
96th Congress

An Act

To restore to the Shivwits, Kanosh, Koosharem, and Indian Peaks Bands of Paiute Indians of Utah, and with respect to the Cedar City Band of Paiute Indians of Utah, to restore or confirm, the Federal trust relationship, to restore to members of such Bands those Federal services and benefits furnished to American Indian Tribes by reason of such trust relationship, and for other purposes.

Apr. 3, 1980
[H.R. 4996]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Paiute Indian Tribe of Utah Restoration Act".

Paiute Indian Tribe of Utah Restoration Act.
25 USC 761 note.

SEC. 2. For the purposes of this Act—

Definitions.
25 USC 761.

(1) the term "tribe" means the Cedar City, Shivwits, Kanosh, Koosharem, and Indian Peaks Bands of Paiute Indians of Utah;

(2) the term "Secretary" means the Secretary of the Interior or his authorized representative;

(3) the term "Interim Council" means the council elected pursuant to section 5;

(4) the term "member", when used with respect to the tribe, means a person enrolled on the membership roll of the tribe, as provided in section 4 of this Act; and

(5) the term "final membership roll" means the final membership roll of the tribe published on April 15, 1955, on pages 2499 through 2503 of volume 20 of the Federal Register and on April 14, 1956, on pages 2453 through 2456 of volume 21 of the Federal Register.

Federal trust relationship, restoration.
25 USC 762.

SEC. 3. (a) The Federal trust relationship is restored to the Shivwits, Kanosh, Koosharem, and Indian Peaks Bands of Paiute Indians of Utah and restored or confirmed with respect to the Cedar City Band of Paiute Indians of Utah. The provisions of the Act of June 18, 1934 (48 Stat. 984) as amended, except as inconsistent with specific provisions of this Act, are made applicable to the tribe and the members of the tribe. The tribe and the members of the tribe shall be eligible for all Federal services and benefits furnished to federally recognized Indian tribes. Notwithstanding any provision to the contrary in any law establishing such services or benefits, eligibility of the tribe and its members for such Federal services and benefits shall become effective upon enactment of this Act without regard to the existence of a reservation for the tribe or the residence of members of the tribe on a reservation. For the purpose of providing for Federal services and benefits, the service area shall be Iron, Millard, Sevier, and Washington Counties, Utah, except that should lands in any other county be added to the reservation pursuant to section 7(c), the service area shall also include the area on or near the additions to the reservation.

25 USC 461.

Effective date.

(b) Except as provided in subsection (c), all rights and privileges of the tribe and of members of the tribe under any Federal treaty, Executive order, agreement, or statute, or under any other authority, which were diminished or lost under the Act of September 1, 1954 (68 Stat. 1099), are hereby restored, and such Act shall be inapplicable to

25 USC 741.

the tribe and to members of the tribe after the date of enactment of this Act.

(c) This Act shall not grant or restore any hunting, fishing, or trapping right of any nature, including any indirect or procedural right or advantage, to the tribe or any member of the tribe.

(d) Except as specifically provided in this Act, nothing in this Act shall alter any property right or obligation, any contractual right or obligations, or any obligation for taxes already levied.

Final tribal membership roll. 25 USC 763.

SEC. 4. (a) The final membership roll is declared open. The Secretary, the Interim Council, and tribal officials under the tribal constitution and bylaws shall take such measures as will insure the continuing accuracy of the membership roll.

Membership qualifications.

(b)(1) Until after the initial election of tribal officers under the tribal constitution and bylaws, a person shall be a member of the tribe and his name shall be placed on the membership roll if he is living and if—

(A) his name is listed on the final membership roll;

(B) he was entitled on September 1, 1954, to be on the final membership roll but his name was not listed on that roll;

(C) he is a descendant of a person specified in subparagraph (A) or (B) and possesses at least one-fourth degree of blood of members of the tribe or their Paiute Indian ancestors;

(D) his name is listed on the roll established pursuant to the Act of October 17, 1968 (82 Stat. 1147), for the disposition of judgment funds, as a member of the Cedar City Band of Paiute Indians;

(E) he was entitled on October 17, 1968, to be on the judgment distribution roll as a member of the Cedar City Band as specified in subparagraph (D) but his name was not listed on that roll; or

(F) he is a descendant of a person specified in subparagraph (D) or (E) and possesses at least one-fourth degree of blood of members of the tribe or their Paiute Indian ancestors.

(2) After the initial election of tribal officials under the tribal constitution and bylaws, the provisions of the tribal constitution and bylaws shall govern membership in the tribe.

Verification of descendancy, age, and blood.

(c)(1) Before election of the Interim Council, verification of descendancy, age, and blood shall be made upon oath before the Secretary and his determination thereon shall be final.

(2) After election of the Interim Council and before the initial election of the tribal officials, verification of descendancy, age, and blood shall be made upon oath before the Interim Council, or its authorized representative. A member of the tribe, with respect to the inclusion of any name, and any person, with respect to the exclusion of his name, may appeal to the Secretary, who shall make a final determination of each such appeal within ninety days after an appeal has been filed with him. The determination of the Secretary with respect to an appeal under this paragraph shall be final.

(3) After the initial election of tribal officials, the provisions of the tribal constitution and bylaws shall govern the verification of any requirements for membership in the tribe, and the Secretary and the Interim Council shall deliver their records and files, and other material relating to enrollment matters, to the tribal governing body.

(d) For purposes of sections 5 and 6, a member who is eighteen years of age or older is entitled and eligible to be given notice of, attend, participate in, and vote at, general council meetings and to nominate candidates for, to run for any office in, and to vote in, elections of members to the Interim Council and to other tribal councils.

Interim Council.
25 USC 764.

SEC. 5. (a) Within forty-five days after the date of the enactment of this Act, the Secretary shall announce the date of a general council meeting of the tribe to nominate candidates for election to the Interim Council. Such general council meeting shall be held within sixty days after the date of the enactment of this Act. Within forty-five days after such general council meeting the Secretary shall hold an election by secret ballot, absentee balloting to be permitted, to elect six members of the tribe to the Interim Council from among the nominees submitted to him from such general council meeting. The Secretary shall assure that notice of the time, place, and purpose of such meeting and election shall be provided to members described in section 4(d) at least fifteen days before such general meeting and election. The ballot shall provide for write-in votes. The Secretary shall approve the Interim Council elected pursuant to this section if he is satisfied that the requirements of this section relating to the nominating and election process have been met. If he is not so satisfied, he shall hold another election under this section, with the general council meeting to nominate candidates for election to the Interim Council to be held within sixty days after such election.

(b) The Interim Council shall represent the tribe and its members in the implementation of this Act and shall be the acting tribal governing body until tribal officials are elected pursuant to section 6(c) and shall have no powers other than those given to it in accordance with this Act. The Interim Council shall have full authority and capacity to receive grants from and to make contracts with the Secretary and the Secretary of Health, Education, and Welfare with respect to Federal services and benefits for the tribe and its members: *Provided*, That no authority to enter into contracts or to make payments under this Act shall be effective except to such extent or in such amounts as are provided in advance in appropriation Acts. The Interim Council shall have the authority to bind the tribal governing body as the successor in interest to the Interim Council for a period extending not more than six months after the date on which the tribal governing body takes office. Except as provided in the preceding sentence, the Interim Council shall have no power or authority after the time when the duly-elected tribal governing body takes office.

(c) Within thirty days after receiving notice of a vacancy on the Interim Council, the Interim Council shall hold a general council meeting for the purpose of electing a person to fill such vacancy. The Interim Council shall provide notice of the time, place, and purpose of such meeting and election to members described in section 4(d) at least ten days before such general meeting and election. The person nominated to fill such vacancy at the general council meeting who received the highest number of votes in the election shall fill such vacancy.

Tribal constitution and bylaws.
25 USC 765.
25 USC 461.

SEC. 6. (a) Upon the written request of the Interim Council, the Secretary shall conduct an election by secret ballot, pursuant to the provisions of section 16 of the Act of June 18, 1934 (48 Stat. 987), for the purpose of adopting a constitution and bylaws for the tribe. The election shall be held within sixty days after the Secretary has—

(1) reviewed and updated the final membership roll for accuracy, in accordance with sections 4(a), 4(b)(1), and 4(c)(1),

(2) made a final determination of all appeals filed under section 4(c)(2), and

(3) published in the Federal Register a certified copy of the membership roll of the tribe.

Publication in Federal Register.

79-194 O—81—pt. 1——24 : QL3

(b) The Interim Council shall draft and distribute to each member described in section 4(d), no later than thirty days before the election under subsection (a), a copy of the proposed constitution and bylaws of the tribe, as drafted by the Interim Council, along with a brief and impartial description of the proposed constitution and bylaws. The members of the Interim Council may freely consult with members of the tribe concerning the text and description of the constitution and bylaws, except that such consultation may not be carried on within fifty feet of the polling places on the date of the election.

(c) In any election held pursuant to subsection (a), a vote of a majority of those actually voting shall be necessary and sufficient for the adoption of a tribal constitution and bylaws.

(d) Not later than one hundred and twenty days after the tribe adopts a constitution and bylaws, the Interim Council shall conduct an election by secret ballot for the purpose of electing the individuals who will serve as tribal officials as provided in the tribal constitution and bylaws. For the purpose of this election and notwithstanding any provision in the tribal constitution and bylaws to the contrary, absentee balloting shall be permitted.

Indian lands.
25 USC 766.

SEC. 7. (a) The Secretary, within one year following the date of the enactment of this Act, shall accept the real property of members of the tribe or bands if conveyed or otherwise transferred to him, and real property held for the benefit of members of the tribe or bands if conveyed or otherwise transferred to him by the owner or owners of such land held for the benefit of the bands. Such property shall be subject to all valid existing rights including, but not limited to, liens, outstanding taxes (local and State), and mortgages. The land transferred to the Secretary pursuant to this subsection shall be subject to foreclosure or sale pursuant to the terms of any valid existing obligation in accordance with the laws of the State of Utah. Subject to the conditions imposed by this subsection, the land transferred shall be taken in the name of the United States in trust for the tribe or bands to be held as Indian lands are held, and shall be part of their reservation. The transfer of real property authorized by this section shall be exempt from all local, State, and Federal taxation. All real property transferred under this section shall, as of the date of transfer, be exempt from all local, State, and Federal taxation.

(b) The State of Utah shall exercise civil and criminal jurisdiction with respect to the reservation and persons on the reservation as if it had assumed jurisdiction pursuant to the Act of August 15, 1953 (67 Stat. 588), as amended by the Act of April 11, 1968 (82 Stat. 79), and pursuant to sections 63-36-9 through 63-36-21 of the Utah State Code.

28 USC 1360 note.

(c) Inasmuch as the Kanosh, Koosharem and Indian Peaks Bands of Paiute Indians lost land which had been their former reservations and the Cedar City Band of Paiute Indians had never had a reservation, the Secretary shall negotiate with the tribe or bands, or with representatives of the tribe chosen by the tribe or bands, concerning the enlargement of the reservation for the tribe established pursuant to subsection (a) and shall within two years after the date of enactment of this Act, develop a plan for the enlargement of the reservation for the tribe. The plan shall include acquisition of not to exceed a total of fifteen thousand acres of land to be selected from available public, State, or private lands within Beaver, Iron, Millard, Sevier, or Washington Counties, Utah. Upon approval of such plan by the tribal officials elected under the tribal constitution and bylaws adopted pursuant to section 6, the Secretary shall submit such plan, in the form of proposed legislation, to the Congress.

Reservation enlargement plan, submittal to Congress.

(d) To assure that legitimate State and local interests are not prejudiced by the enlargement of the reservation for the tribe, the Secretary, in developing the plan under subsection (c) for the enlargement of the reservation for the tribe, shall notify and consult with all appropriate officials of the State of Utah, all appropriate local government officials in the affected five county area in the State of Utah and any other interested parties. Such consultation shall include the following subjects:

(1) the size and location of the additions to the reservation;

(2) the effect the enlargement of the reservation would have on State and local tax revenues;

(3) the criminal and civil jurisdiction of the State of Utah with respect to the reservation and persons on the reservation;

(4) hunting, fishing, and trapping rights of the tribe, and members of the tribe, on the reservation;

(5) the provision of State and local services to the reservation and to the tribe and members of the tribe on the reservation; and

(6) the provision of Federal services to the reservation and to the tribe and members of the tribe and the provision of services by the tribe to members of the tribe.

(e) Any plan developed under this section for the enlargement of the reservation for the tribe shall provide that—

(1) the enlargement of the reservation will not grant or restore to the tribe or any member of the tribe any hunting, fishing, or trapping right of any nature, including any indirect or procedural right or advantage, on such addition to the reservation;

(2) the Secretary shall not accept any real property in trust for the benefit of the tribe or bands unless such real property is located either within Beaver, Iron, Millard, Sevier, or Washington Counties, State of Utah;

(3) the transfer of any real property to the Secretary in trust for the benefit of the tribe or bands as an addition to the reservation shall be exempt from all Federal, State, and local taxation, and all such real property shall, as of the date of such transfer, be exempt from Federal, State, and local taxation; and

(4) the State of Utah shall exercise civil and criminal jurisdiction with respect to the addition to the reservation and persons on such lands as if it had assumed jurisdiction pursuant to the Act of August 15, 1953 (67 Stat. 588), as amended by the Act of April 11, 1968 (82 Stat. 79), and pursuant to sections 63-36-9 through 63-36-21 of the Utah State Code. 28 USC 1360 note.

(f) The Secretary shall append to the plan a detailed statement describing the manner in which the notification and consultation prescribed by subsection (d) was carried out and shall include any written comments with respect to the enlargement of the reservation for the tribe submitted to the Secretary by State and local officials and other interested parties in the course of such consultation.

Claims for Indian lands. 25 USC 767.

SEC. 8. Any legal claims for lands owned by the Shivwits, Kanosh, Koosharem, or Indian Peaks Bands of Paiute Indians of Utah and lost through tax sales or any other sales to individuals, corporations, or the State of Utah since September 1, 1954, are hereby barred.

25 USC 768.

SEC. 9. The Secretary may make such rules and regulations as are necessary to carry out the purposes of the Act.

Approved April 3, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 97-712 (Comm. on Interior and Insular Affairs).
SENATE REPORT No. 96-481 accompanying S. 1273 (Comm. on Indian Affairs).
CONGRESSIONAL RECORD:
Vol. 125 (1979): Dec. 19, S. 1273 considered and passed Senate.
Vol. 126 (1980): Feb. 25, H.R. 4996 considered and passed House.
Mar. 11, considered and passed Senate, amended.
Mar. 25, House concurred in Senate amendments.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:
Vol. 16, No. 14 (1980): Apr. 3, Presidential statement.

Public Law 96-228
96th Congress

An Act

To authorize the striking of Bicentennial medals.

Apr. 3, 1980
[S. 1515]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in commemoration of the adoption of the Constitution of the United States of America and of those individuals who participated in the American Revolution, the Secretary of the Treasury shall strike and furnish to the United States Capitol Historical Society (hereinafter referred to as the "Society") not more than fifty thousand medals each year with suitable designs, emblems, and inscriptions to be determined by the Society, with the concurrence of the Commission of Fine Arts, subject to the approval of the Secretary of the Treasury. Subject to the availability of the production facilities of the Bureau of the Mint, the medals shall be struck and delivered at such time as may be required by the Society in quantities not less than two thousand medals of each alloy authorized in this Act, but no medals shall be struck after December 31, 1989. The medals shall be considered to be national medals within the meaning of section 3551 of the Revised Statutes (31 U.S.C. 368).

Bicentennial medals.

SEC. 2. The medals shall be furnished by the Secretary of the Treasury to the Society at a price equal to the cost of manufacture, including labor, materials, dies, use of machinery, and overhead expenses, plus a surcharge equal to 50 per centum of such cost of manufacture. Such surcharge shall be deposited in the Treasury as miscellaneous receipts. Security satisfactory to the Director of the Mint shall be furnished by the Society to indemnify the United States for full payment of the costs of manufacture.

SEC. 3. The medals authorized to be issued pursuant to this Act shall be struck in bronze, silver, and gold and shall be of such size or sizes as is determined by the Secretary of the Treasury in consultation with the Society.

Size.

SEC. 4. No agreement or contract shall be entered into, directly or indirectly, by the Society and any person for the marketing of the medals authorized by this Act. All gross proceeds arising from the sale of the medals authorized by this Act shall accrue, in their entirety, to the Society.

Proceeds.

Records and documents, examination.

SEC. 5. The Comptroller General of the United States shall have the right to examine all books, records, documents, and other data of the Society as may be related to the medals authorized by this Act, including all records and documents pertaining to the marketing of the medals.

Approved April 3, 1980.

LEGISLATIVE HISTORY:

SENATE REPORT No. 96-296 (Comm. on Banking, Housing, and Urban Affairs).
CONGRESSIONAL RECORD:
Vol. 125 (1979): Sept. 6, considered and passed Senate.
Vol. 126 (1980): Mar. 17, considered and passed House, amended.
Mar. 25, Senate concurred in House amendment.

Public Law 96-229
96th Congress

An Act

To authorize appropriations for environmental research, development, and demonstrations for the fiscal year 1980, and for other purposes.

Apr. 7, 1980
[H.R. 2676]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

Environmental Research, Development, and Demonstration Authorization Act of 1980.

SECTION 1. This Act may be cited as the "Environmental Research, Development, and Demonstration Authorization Act of 1980".

PROGRAM AUTHORIZATIONS

SEC. 2. (a) There are authorized to be appropriated to the Environmental Protection Agency for environmental research, development, and demonstration activities for the fiscal year 1980 for the following activities:

(1) $66,659,000 for water quality activities authorized under the Federal Water Pollution Control Act of which— 33 USC 1251 note.

(A) $25,224,000 is for the Health and Ecological Effects program: *Provided,* That the Agency is encouraged to obligate and to expend $900,000 of these funds on the Cold Climate Research program through the Agency's Corvallis Environmental Research Laboratory, Corvallis, Oregon: *Provided further,* That of the funds appropriated pursuant to this paragraph, $3,600,000 shall be obligated and expended on the Great Lakes Research Station, Grosse Ile, Michigan: *And provided further,* That of the funds appropriated pursuant to this paragraph, $1,000,000 shall be obligated and expended on research to develop environmentally sound methods to control aquatic weeds;

(B) $14,827,000 is for the Industrial Processes program;

(C) $12,250,000 is for the Monitoring and Technical Support program; and

(D) $14,358,000 is for the Public Sector Activities program.

(2) $9,638,000 for activities under the Federal Insecticide, Fungicide, and Rodenticide Act of which— 7 USC 136 note.

(A) $8,298,000 is for the Health and Ecological Effects program;

(B) $900,000 is for the Industrial Processes program; and

(C) $440,000 is for the Monitoring and Technical Support program.

(3) $26,919,000 for water supply activities authorized under the Safe Drinking Water Act of which— 42 USC 201 note.

(A) $21,944,000 is for the Public Sector Activities program;

(B) $4,000,000 is for a groundwater program to include soil pollution research activities; and

(C) $975,000 is for the Monitoring and Technical Support program.

15 USC 2601 note.

(4) $30,977,000 for toxic substances control activities authorized under the Toxic Substances Control Act of which—

(A) $26,397,000 is for the Health and Ecological Effects program;

(B) $1,742,000 is for the Industrial Processes program; and

(C) $2,838,000 is for the Monitoring and Technical Support program.

42 USC 201 note.

(5) $2,930,000 for radiation activities authorized under the Public Health Service Act, in the Health and Ecological Effects program.

42 USC 7401 note.

(6) $71,963,000 for air quality activities authorized under the Clean Air Act of which—

(A) $46,624,000 is for the Health and Ecological effects program;

(B) $4,050,000 is for the Industrial Processes program; and

(C) $21,289,000 is for the Monitoring and Technical Support program.

42 USC 6901 note.

(7) $10,243,000 for solid waste activities authorized under the Resource Conservation and Recovery Act, of which—

(A) $8,143,000 is for the Public Sector Activities program, and

(B) $2,100,000 is for a Hazardous Waste program, of which—

Non-nuclear hazardous waste disposal, study.

(i) $300,000 shall be used for a study of non-nuclear hazardous waste disposal including consideration of the effects of such disposal on the environment, and a general review of disposal technology, alternatives to disposal, and options for containing or removing hazardous wastes already in the environment. The Administrator of the Environmental Protection Agency shall enter into appropriate arrangements with the National Academy of Sciences to conduct this study. The Academy should complete the study within eighteen months after funding arrangements have been made and make interim reports at least every six months to the Congress and the Environmental Protection Agency. The Administrator shall regularly report to the Congress on the Agency's response to the interim reports and shall deliver his recommendations for acting on the findings of the final study no later than July 1, 1981;

Reports to Congress and EPA.

(ii) $300,000 shall be used to begin development of protocols and working manuals specifying the types of health problems associated with various hazardous wastes, effects of various kinds of exposure, strategies to contain releases from hazardous disposal sites, actions to be taken by on-scene response teams, and other activities deemed by the Administrator to be of urgent need in responding to hazardous waste releases; and

(iii) $1,500,000 shall be used to demonstrate cost-effective strategies for isolating, containing, or neutralizing hazardous wastes.

42 USC 4901 note.

(8) $500,000 for noise control activities authorized under the Noise Control Act, in the Health and Ecological Effects program.

(9) $25,449,000 for Interdisciplinary activities of which—

(A) $5,099,000 is for the Health and Ecological Effects program;

(B) $16,883,000 is for the Anticipatory Research program; and

(C) $3,467,000 is for the Monitoring and Technical Support program.

(10) $103,461,000 for Energy-related activities of which—

(A) $49,186,000 is for the Health and Ecological Effects program; and

(B) $54,275,000 is for the Energy Control program.

(b) There is authorized to be appropriated to the Environmental Protection Agency, Office of Research and Development, for the fiscal year 1980, for program management and support, $26,753,000.

Transfer of funds.

(c) No funds may be transferred from any particular category listed in subsection (a) or (b) to any other category or categories listed in either such subsection if the total of the funds so transferred from that particular category would exceed 10 per centum thereof, and no funds may be transferred to any particular category listed in subsection (a) or (b) from any other category or categories listed in either such subsection if the total of the funds so transferred to that particular category would exceed 10 per centum thereof, unless—

Report to Speaker of House and President of Senate.

(1) a period of thirty legislative days has passed after the Administrator of the Environmental Protection Agency or his designee has transmitted to the Speaker of the House of Representatives and to the President of the Senate a written report containing a full and complete statement concerning the nature of the transfer involved and the reason therefor or

Notice to EPA Administrator.

(2) each committee of the House of Representatives and the Senate having jurisdiction over the subject matter involved, before the expiration of such period, has transmitted to the Administrator written notice to the effect that such committee has no objection to the proposed action.

42 USC 4363a.

(d)(1) The Administrator shall continue to be responsible for conducting and shall continue to conduct full-scale demonstrations of energy-related pollution control technologies as necessary in his judgment to fulfill the provisions of the Clean Air Act as amended, the Federal Water Pollution Control Act as amended, and other pertinent pollution control statutes.

42 USC 7401 note. 33 USC 1251 note.

Energy-related environmental protection projects.

(2) Energy-related environmental protection projects authorized to be administered by the Environmental Protection Agency under this Act shall not be transferred administratively to the Department of Energy or reduced through budget amendment. No action shall be taken through administrative or budgetary means to diminish the ability of the Environmental Protection Agency to initiate such projects.

Long-term environmental research and development. 42 USC 4363.

(e) The Administrator shall establish a separately identified program to conduct continuing and long-term environmental research and development. Unless otherwise specified by law, at least 15 per centum of the funds appropriated to the Agency for environmental research and development in each category listed in subsection (a) of this section shall be allocated for such long-term environmental research and development under this subsection.

OTHER AUTHORIZATIONS

SEC. 3. There is authorized to be appropriated to the Secretary of Commerce for the fiscal year 1980 for use by the National Bureau of Standards—

(1) $500,000 for research in the area of environmental measurement sciences; and

(2) $3,500,000 to carry out activities authorized in section 5002 of the Resource Conservation and Recovery Act of 1976 (Public Law 94-580).

42 USC 6952.

REPORTING

42 USC 4369a.

SEC. 4. (a) The Administrator shall keep the appropriate committees of the House and the Senate fully and currently informed about all aspects of the environmental research and development activities of the Environmental Protection Agency.

Report to congressional committees.

(b) Each year, at the time of the submission of the President's annual budget request, the Administrator shall make available to the appropriate committees of Congress sufficient copies of a report fully describing funds requested and the environmental research and development activities to be carried out with these funds.

REIMBURSEMENT FOR USE OF FACILITIES

42 USC 4370.

SEC. 5. (a) The Administrator is authorized to allow appropriate use of special Environmental Protection Agency research and test facilities by outside groups or individuals and to receive reimbursement or fees for costs incurred thereby when he finds this to be in the public interest. Such reimbursement or fees are to be used by the Agency to defray the costs of use by outside groups or individuals.

(b) The Administrator may promulgate regulations to cover such use of Agency facilities in accordance with generally accepted accounting, safety, and laboratory practices.

Waiver.

(c) When he finds it is in the public interest the Administrator may waive reimbursement or fees for outside use of Agency facilities by nonprofit private or public entities.

Approved April 7, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 96-58 (Comm. on Science and Technology) and No. 96-611 (Comm. of Conference).
SENATE REPORT No. 96-158 (Comm. on Environment and Public Works).
CONGRESSIONAL RECORD:
Vol. 125 (1979): Mar. 26, 27, considered and passed House.
May 23, considered and passed Senate, amended.
Nov. 14, Senate agreed to conference report.
Nov. 29, point of order made and sustained against conference report; House receded from its disagreement and agreed to Senate amendment No. 1 with an amendment; agreed to amendments numbered 2 through 7.
Vol. 126 (1980): Mar. 25, Senate agreed to House amendment.

Public Law 96-230
96th Congress

An Act

To extend the reorganization authority of the President under chapter 9 of title 5.

Apr. 8, 1980
[H.R. 6585]

President's reorganization authority, extension.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 905(b) of title 5, United States Code, is amended by striking out "three years" and inserting in lieu thereof "four years".

Approved April 8, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-805 (Comm. on Government Operations).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Mar. 10, considered and passed House.
Apr. 2, considered and passed Senate.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 16, No. 15 (1980):
Apr. 8, Presidential statement.

Public Law 96-231
96th Congress

Joint Resolution

Apr. 8, 1980
[S.J. Res. 131]

Designating April 10, 1980, as "ORT Centennial Day".

Whereas the Organization for Rehabilitation through Training (ORT) has historically been the earliest pioneer in the use of systematic vocational and technical training as a strategy to banish deprivation and economic backwardness; and

Whereas the ORT has provided productive channels for human advancement through the acquisition of skills for livelihood at times and places where such programs were nonexistent; and

Whereas the ORT has assisted almost two million people in more than forty countries on five continents, thereby becoming the biggest nongovernmental voluntary program of vocational and job training in the world; and

Whereas the ORT has become part of the array of ongoing services that are essential to communities, as evidenced by the rapid development of technical training programs and educational institutions in many countries, including Argentina, Iran, Peru, and India, and by the continuing enrichment of the quality of educational services throughout Latin America; and

Whereas the ORT has provided assistance needed for the assimilation of hundreds of thousands of north African Jews by the French community, and for the migration and resettlement process of Soviet Jewish refugees; and

Whereas the ORT has been the means for the development of Israel's human resources and has provided the training for a major portion of Israel's skilled labor force: Now, therefore, be it

ORT Centennial Day.
Designation.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That April 10, 1980, is designated as "ORT Centennial Day"; and the President is authorized and requested to issue a proclamation calling upon the people of the United States to salute the Organization for Rehabilitation through Training on its one-hundredth anniversary in recognition of its accomplishments.

Approved April 8, 1980.

LEGISLATIVE HISTORY:

SENATE REPORT No. 96-622 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Mar. 18, considered and passed Senate.
Apr. 1, considered and passed House.

Public Law 96-232
96th Congress

An Act

To designate the building known as the Federal Building in Evansville, Indiana, as the "Winfield K. Denton Building".

Apr. 10, 1980
[H.R. 5794]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the building at 101 Northwest Seventh Street, Evansville, Indiana (commonly known as the Federal Building), shall hereafter be known and designated as the "Winfield K. Denton Building". Any reference in a law, map, regulation, document, record, or other paper of the United States to that building shall be held to be a reference to the "Winfield K. Denton Building".

Winfield K. Denton Building. Designation.

Approved April 10, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-666 (Comm. on Public Works and Transportation).
CONGRESSIONAL RECORD:
Vol. 125 (1979): Dec. 3, considered and passed House.
Vol. 126 (1980): Apr. 1, considered and passed Senate.

Public Law 96-233
96th Congress

Joint Resolution

Apr. 10, 1980
[S.J. Res. 97]

Designating April 13 through April 19 as "Days of Remembrance of Victims of the Holocaust".

Whereas, less than forty years ago, six million Jews as well as millions of others were murdered in Nazi concentration camps as part of a planned program of extermination;
Whereas the people of the United States of America should always remember the terrible atrocities committed by the Nazis so that they are never repeated;
Whereas the people of the United States should continually rededicate themselves to the principle of equality;
Whereas the people of the United States should remain eternally vigilant against all tyranny, recognizing that tyranny provides a breeding ground for bigotry to flourish;
Whereas April 13 has been designated internationally as a day of remembrance of victims of the Nazi holocaust, known as Yom Hoshoah; and
Whereas it is appropriate for the American people to join in the international commemoration: Now, therefore, be it

Days of Remembrance of Victims of the Holocaust. Designation.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That, in memory of all the victims of the holocaust and in the hope that Americans will strive always to overcome cruelty and prejudice through vigilance and resistance, the days of April 13 through April 19, 1980, are hereby designated as the "Days of Remembrance of Victims of the Holocaust". The President is requested to issue a proclamation calling upon the people of the United States to remember the atrocities committed by the Nazis and to commemorate such days with appropriate ceremonies and activities.

Approved April 10, 1980.

LEGISLATIVE HISTORY:

SENATE REPORT No. 96-317 (Comm. on the Judiciary).
CONGRESSIONAL RECORD:
Vol. 125 (1979): Sept. 14, considered and passed Senate.
Vol. 126 (1980): Apr. 1, considered and passed House.

Public Law 96-234
96th Congress

An Act

To encourage greater participation in the farmer-held reserve program for corn and wheat, and for other purposes.

Apr. 11, 1980
[S. 2427]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Corn and wheat, farmer-held reserve program.

FARMER-HELD RESERVE PROGRAM

SECTION 1. Section 110 of the Agricultural Act of 1949 is amended by— 7 USC 1445e.

(1) redesignating subsections (c) through (g) as subsections (d) through (h), respectively; and

(2) inserting after subsection (b) a new subsection (c) as follows:

"(c) Notwithstanding any other provision of law, the Secretary may, to the extent the Secretary determines such action necessary in order to encourage producers to store corn and wheat for extended periods of time under the terms and conditions of the program authorized by this section, make price support loans under this section on the 1979 crops of corn and wheat (at the same level of support as provided by this Act) to any producer of corn or wheat who did not (1) file a timely agreement to participate in the 1979 set-aside program for the commodity and (2) comply with the requirements of the 1979 set-aside program for the commodity.".

Price support loans.

SALE OF COMMODITY CREDIT CORPORATION STOCKS OF CORN FOR USE IN MAKING ALCOHOL FOR MOTOR FUEL

SEC. 2. Section 110(e) of the Agricultural Act of 1949, as redesignated by section 1(1) of this Act, is amended by—

(1) striking out "and" at the end of clause (1);

(2) striking out the period at the end of clause (2) and inserting in lieu thereof a semicolon and "and"; and

(3) adding at the end thereof a new clause (3) as follows:

"(3) sales of corn when sold at not less than the release level under the extended loan program for use in the production of alcohol for motor fuel at facilities that (A) begin operation after January 4, 1980, and (B), whenever supplies of corn are not readily available, can produce alcohol from agricultural or forestry biomass feedstocks other than corn.".

FARM STORAGE FACILITY LOAN PROGRAM

SEC. 3. Section 4(h) of the Commodity Credit Corporation Charter Act is amended by— 15 USC 714b.

(1) striking out "$50,000" both places it occurs and inserting in lieu thereof "$100,000"; and

(2) striking out "the size of such facility for which a loan is obtained shall be based upon the amount of space required to store the quantity of the commodity estimated to be produced by the borrower during a two-year period;".

Approved April 11, 1980.

LEGISLATIVE HISTORY:

SENATE REPORT No. 96-633 (Comm. on Agriculture, Nutrition, and Forestry).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Mar. 26, considered and passed Senate.
Apr. 1, considered and passed House.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 16, No. 15:
Apr. 11, Presidential statement.

Public Law 96-235
96th Congress

An Act

To amend the District of Columbia Self-Government and Governmental Reorganization Act to authorize the Council of the District of Columbia to delegate its authority to issue revenue bonds for undertakings in the area of housing to any housing finance agency established by it and to provide that payments of such bonds may be made without further approval.

Apr. 12, 1980
[H.R. 3824]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 490 of the District of Columbia Self-Government and Governmental Reorganization Act, relating to revenue bonds and other obligations, is amended by adding after subsection (f) the following new subsection:

D.C. Revenue bonds for housing, issuance. Delegation of authority. D.C. Code 47-254.

"(g)(1) The Council may delegate to any housing finance agency established by it (whether established before or after the date of the enactment of this subsection) the authority of the Council under subsection (a) to issue revenue bonds, notes, and other obligations to borrow money to finance or assist in the financing of undertakings in the area of primarily low- and moderate-income housing. The Council shall define for the purposes of the preceding sentence what undertakings shall constitute undertakings in the area of primarily low- and moderate-income housing. Any such housing finance agency may exercise authority delegated to it by the Council as described in the first sentence of this paragraph (whether such delegation is made before or after the date of the enactment of this subsection) only in accordance with this subsection.

"(2) Revenue bonds, notes, and other obligations issued by a housing finance agency of the District under a delegation of authority described in paragraph (1) shall be issued by resolution of the agency, and any such resolution shall not be considered to be an act of the Council.

D.C. Code 47-224.

"(3) The fourth sentence of section 446 shall not apply to (A) the expenditure of funds derived from the sale of any revenue bond, note, or other obligation issued by a housing finance agency established by the Council to which a delegation of authority described in paragraph (1) has been made, (B) the creation by such an agency of a security interest in the revenues or assets of such agency in connection with the sale of any such bond, note, or other obligation, or (C) the payment (as to either principal or interest or both) of any such bond, note, or other obligation.".

Approved April 12, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 96-129 (Comm. on the District of Columbia) and No. 96-830 (Comm. of Conference).
SENATE REPORTS: No. 96-262 (Comm. on Governmental Affairs) and No. 96-619 (Comm. of Conference).
CONGRESSIONAL RECORD:
Vol. 125 (1979): May 14, considered and passed House.
Aug. 2, considered and passed Senate, amended.
Vol. 126 (1980): Mar. 11, Senate agreed to conference report.
Apr. 1, House agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:
Vol. 16, No. 16 (1980): Apr. 12, Presidential statement.

79-194 O—81—pt. 1——25 : QL3

Public Law 96-236
96th Congress

An Act

Apr. 22, 1980
[H.R. 6029]

Providing for the implementation of the International Sugar Agreement, 1977, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

International Sugar Agreement 1977, implementation.
7 USC 3601.

SECTION 1. DEFINITIONS.

For purposes of this Act—

(1) The term "Agreement" means the International Sugar Agreement, 1977, signed at New York City on December 9, 1977.

(2) The term "sugar" has the same meaning as is given to such term in paragraph (12) of Article 2 of the Agreement.

(3) The term "entry" means entry, or withdrawal from warehouse, for consumption in the customs territory of the United States.

7 USC 3602.

SEC. 2. IMPLEMENTATION OF AGREEMENT.

On and after the entering into force of the Agreement with respect to the United States, and for such period before January 1, 1983, as the Agreement remains in force, the President may, in order to carry out and enforce the provisions of the Agreement—

(1) regulate the entry of sugar by appropriate means, including, but not limited to—

(A) the imposition of limitations on the entry of sugar which is the product of foreign countries, territories, or areas not members of the International Sugar Organization, and

(B) the prohibition of the entry of any shipment or quantity of sugar not accompanied by a valid certificate of contribution or such other documentation as may be required under the Agreement;

Recordkeeping.

(2) require of appropriate persons the keeping of such records, statistics, and other information, and the submission of such reports, relating to the entry, distribution, prices, and consumption of sugar and alternative sweeteners as he may from time to time prescribe; and

(3) take such other action, and issue and enforce such rules or regulations, as he may consider necessary or appropriate in order to implement the rights and obligations of the United States under the Agreement.

7 USC 3603.

SEC. 3. DELEGATION OF POWERS AND DUTIES.

The President may exercise any power or duty conferred on him by this Act through such agencies or offices of the United States as he shall designate. Such agencies or offices shall issue such regulations as they determine are necessary to implement this Act.

SEC. 4. CRIMINAL OFFENSES. 7 USC 3604.

Any person who—

(1) knowingly fails to keep any information, or to submit any report, required under section 2;

(2) submits any report under section 2 knowing that the report or any part thereof is false; or

(3) knowingly violates any rule or regulation issued to carry out this Act;

is guilty of an offense and upon conviction thereof is punishable by a fine of not more than $1,000.

SEC. 5. REPORT TO CONGRESS. 7 USC 3605.

The President shall submit to Congress, on or before May 1 and November 1 of each year, a report on the operation and effect of the Agreement during the immediately preceding six-month period. Unless otherwise published on a regular basis by an agency of the United States, the report shall contain, but not be limited to—

(1) information with respect to world and domestic sugar demand, supplies, and prices during the period concerned;

(2) projections with respect to world and domestic sugar demand, supplies, and prices; and

(3) a summary of the international and domestic actions taken during the period concerned under the Agreement and under domestic legislation to protect the interests of United States consumers and producers of sugar.

SEC. 6. PROTECTION OF INTERESTS OF UNITED STATES CONSUMERS. 7 USC 3606.

The powers and duties conferred by sections 2 and 3 shall be exercised in the manner the President considers appropriate to protect the interest of United States consumers. If the President determines that there has been an unwarranted increase in the price of sugar due in whole or in part to the Agreement, or to market manipulation by two or more members of the International Sugar Organization, the President shall request the International Sugar Council or the Executive Committee to increase supplies of sugar available to world markets by suspending sugar export quotas or to take any other appropriate action, and, at the same time, shall report that determination to the Congress. If the International Sugar Council fails to take corrective action to remedy the situation within a reasonable time after such request, the President shall submit to the Congress such recommendations as he may consider appropriate to correct the situation. In the event that members of the International Sugar Organization involved in market manipulation which has resulted in price increases have failed to remedy the situation within a reasonable time after a request for remedy, the exercise of the authority set forth in section 2 shall be suspended until the President determines that effective market manipulation activities have ceased.

Recommendations, submittal to Congress.

Approved April 22, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-725, pt. 1 (Comm. on Ways and Means).
SENATE REPORT No. 96-644 (Comm. on Finance).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Mar. 11, considered and passed House.
Apr. 2, considered and passed Senate.

Public Law 96-237
96th Congress

Joint Resolution

Apr. 24, 1980
[H.J. Res. 474]

To authorize and request the President to issue a proclamation designating April 21 through April 28, 1980, as "Jewish Heritage Week".

Whereas the Congress recognizes that an understanding of the heritage of all American ethnic groups contributes to the unity of our country; and

Whereas intergroup understanding can be further fostered through an appreciation of the culture, history, and traditions of the Jewish community and the contributions of Jews to our country and society; and

Whereas the month of April contains events of major significance in the Jewish calendar—Passover, the anniversary of the Warsaw Ghetto Uprising, Israeli Independence Day, Solidarity Sunday for Soviet Jewry, and Jerusalem Day: Now, therefore, be it

Jewish Heritage Week. Designation authorization.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, **That the President is authorized and requested to issue a proclamation designating April 21 through April 28, 1980, as "Jewish Heritage Week" and calling upon the people of the United States, State and local government agencies, and interested organizations to observe that week with appropriate ceremonies, activities, and programs.**

Approved April 24, 1980.

LEGISLATIVE HISTORY:

CONGRESSIONAL RECORD, Vol. 126 (1980):
Apr. 21, considered and passed House.
Apr. 22, considered and passed Senate.

Public Law 96-238
96th Congress

An Act

To authorize the Secretary of the Army to convey to the Michigan Job Development Authority the lands and improvements comprising the Michigan Army Missile Plant in Sterling Heights, Macomb County, Michigan, in return for two new office buildings at the Detroit Arsenal, Warren, Michigan.

Apr. 24, 1980
[H.R. 6464]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, subject to section 2 and notwithstanding any other provision of law, the Secretary of the Army (hereinafter in this Act referred to as the "Secretary") is authorized to convey to the Michigan Job Development Authority, a public corporation of the State of Michigan (hereinafter in this Act referred to as the "Authority"), all right, title, and interest of the United States in and to the lands and improvements comprising the Michigan Army Missile Plant, Sterling Heights, Macomb County, Michigan, and related personal property (as determined by the Secretary).

Michigan Army Missile Plant, conveyance to Michigan Job Development Authority.

SEC. 2. (a) In consideration for the conveyance authorized by the first section of this Act, the Authority, pursuant to an agreement to be entered into between the Authority and the Secretary, shall—

Terms and conditions.

(1) provide to the United States buildings and other improvements as described in subsection (b);

(2) provide to the United States (A) the cost (as determined by the Secretary) of relocating the Federal Government activities located at the Michigan Army Missile Plant to the buildings provided in accordance with paragraph (1), and (B) the amount of Federal costs (as determined by the Secretary) incident to the construction of such buildings and such relocation; and

(3) pay to the United States an amount equal to the amount by which the fair market value (as determined by the Secretary) of the property conveyed by the United States under the first section of this Act exceeds the sum of (A) the actual cost (as determined by the Secretary) of the buildings and improvements provided to the United States in accordance with paragraph (1), and (B) the amounts provided to the United States in accordance with paragraph (2).

(b) The buildings and improvements to be provided to the United States under subsection (a)(1) shall consist of two buildings not to exceed one hundred and ninety-six thousand gross square feet each and appropriate related site improvements, to be constructed on land belonging to the United States at the Detroit Arsenal, Warren, Michigan, in accordance with plans and specifications approved by the Secretary.

Detroit Arsenal, Mich., building and improvement construction.

(c) Any moneys received by the Secretary under subsection (a)(2) shall be credited to the appropriations accounts to which the costs of such relocation and such incidental costs are charged. Any moneys received by the Secretary under subsection (a)(3) shall be covered into the Treasury as miscellaneous receipts.

Administration.

SEC. 3. The Secretary is authorized to accept and administer any property provided to the United States under this Act.

SEC. 4. The Secretary may require such additional terms and conditions as the Secretary considers appropriate to carry out the provisions of this Act and to protect the interests of the United States.

Report to congressional committees.

SEC. 5. Before the conveyance described in the first section of this Act, the Secretary shall report to the appropriate committees of Congress on such conveyance and on the agreement entered into under section 2(a) with respect to the conveyance.

Approved April 24, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-828 (Comm. on Armed Services).
SENATE REPORT No. 96-649 accompanying S. 2235 (Comm. on Armed Services).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Apr. 1, considered and passed House.
Apr. 22, considered and passed Senate in lieu of S. 2235
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 16, No. 17:
Apr. 24, Presidential statement.

Public Law 96-239
96th Congress

An Act

To amend title IV of the Employee Retirement Income Security Act of 1974 to postpone for two months the date on which the Pension Benefit Guaranty Corporation must pay benefits under terminated multiemployer plans.

Apr. 30, 1980
[H.R. 7140]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 4082(c) of title IV of the Employee Retirement Income Security Act of 1974 (relating to effective dates; special rules) as amended by Public Law 95-214 and Public Law 96-24, is further amended—

Employee Retirement Income Security Act of 1974, amendment.
29 USC 1381.
93 Stat. 70.

(1) by striking "May 1, 1980" in paragraphs (1), (2), and (4) and substituting "July 1, 1980", in each such paragraph; and

(2) by striking "April 30, 1980" in paragraphs 2(B) and 4(D) and substituting "June 30, 1980" in each such paragraph.

Approved April 30, 1980.

LEGISLATIVE HISTORY:

CONGRESSIONAL RECORD, Vol. 126 (1980):
Apr. 28, considered and passed House.
Apr. 29, considered and passed Senate, amended; House concurred in Senate amendments.

Public Law 96-240
96th Congress

Joint Resolution

May 1, 1980
[H.J. Res. 541]

Making additional funds available by transfer for the fiscal year ending September 30, 1980, for the Federal Trade Commission.

Federal Trade Commission, transfer of funds.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sum is transferred, out of funds previously appropriated, for the fiscal year ending September 30, 1980, namely:

FEDERAL TRADE COMMISSION

SALARIES AND EXPENSES

(By transfer)

For an additional amount for "Salaries and expenses", $7,600,000, which shall be derived by transfer from unobligated balances available under the heading "Department of State, International Organizations and Conferences, Contributions to International Organizations": *Provided,* That authority made available by this joint resolution shall be available from April 30, 1980, and shall remain available until May 31, 1980: *Provided further,* That obligations of the Federal Trade Commission made pursuant to this joint resolution shall not exceed $5,800,000: *Provided further,* That none of the funds made available by this joint resolution for the Federal Trade Commission may be used for the final promulgation of trade regulation rules authorized by section 18 of the Federal Trade Commission Act, as amended, nor to initiate any new activities: *Provided further,* That no new trade regulation rules promulgated under the authority of section 18 of the Federal Trade Commission Act, as amended, after August 30, 1979, are to become effective during the period covered by this joint resolution for the Federal Trade Commission, unless authorizing legislation for the Federal Trade Commission is enacted into law during such period.

Ante, p. 128.

15 USC 57a.

Approved May 1, 1980.

LEGISLATIVE HISTORY:

CONGRESSIONAL RECORD, Vol. 126 (1980):
May 1, considered and passed House and Senate.

Public Law 96-241
96th Congress

An Act

To ensure that the compensation and other emoluments attached to the office of Secretary of State are those which were in effect January 1, 1977.

May 3, 1980
[S. 2637]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the compensation and other emoluments attached to the office of Secretary of State shall be those in effect January 1, 1977, notwithstanding any increase in such compensation or emoluments under (1) the Federal Salary Act of 1967 (Public Law 90-206; 81 Stat. 642) or the Executive Salary Cost-of-Living Adjustment Act (Public Law 94-82; 89 Stat. 419) taking effect during the period beginning at noon of January 3, 1977, and ending at noon of January 3, 1983, or (2) any other provision of law, or provision which has the force and effect of law, if such increase becomes effective during that period.

Office of Secretary of State, compensation and other emoluments.
5 USC 5312 note.
5 USC 5332 note.
5 USC 5312 note.

(b) Subsection (a) of this section shall be effective during the period beginning on the enactment of this Act and ending the earlier of noon of January 3, 1983, or the date on which the first individual appointed to the office of Secretary of State after the enactment of this Act ceases to hold that office.

Effective date.

SEC. 2. (a) Any person aggrieved by an action of the Secretary of State may bring a civil action in an appropriate United States district court to contest the constitutionality of the appointment and continuance in office of the Secretary of State on the ground that such appointment and continuance in office is in violation of article I, section 6, clause 2, of the Constitution. The United States district courts shall have exclusive jurisdiction, without regard to the sum or value of the matter in controversy, to determine the validity of such appointment and continuance in office.

Civil action.
22 USC 2651 note.

Jurisdiction.

(b) Any action brought under this section shall be heard and determined by a panel of three judges in accordance with section 2284 of title 28, United States Code. Any review of the action of a court convened pursuant to such section shall be by petition of certiorari to the Supreme Court.

Hearing.

(c) Any judge designated to hear any action brought under this section shall cause such action to be in every way expedited.

(d) This section applies only with respect to the Secretary of State who is first appointed to that office after the enactment of this Act.

Approved May 3, 1980.

LEGISLATIVE HISTORY:

CONGRESSIONAL RECORD, Vol. 126 (1980):
May 1, considered and passed Senate and House.

Public Law 96-242
96th Congress

An Act

May 5, 1980
[H.R. 4197]

To amend the Wool Products Labeling Act of 1939 with respect to recycled wool.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 2(c) of the Wool Products Labeling Act of 1939 (54 Stat. 1128) is amended to read as follows:

Wool Products Labeling Act, amendment.
15 USC 68.

"(c) The term 'recycled wool' means (1) the resulting fiber when wool has been woven or felted into a wool product which, without ever having been utilized in any way by the ultimate consumer, subsequently has been made into a fibrous state, or (2) the resulting fiber when wool or reprocessed wool has been spun, woven, knitted, or felted into a wool product which, after having been used in any way by the ultimate consumer, subsequently has been made into a fibrous state.".

Repeal.

(b) Subsection (d) of section 2 of the Wool Products Labeling Act of 1939 is repealed.

(c) Subsections (e), (f), (g), (h), and (i) of section 2 of the Wool Products Labeling Act of 1939 and all references thereto are redesignated as subsections (d), (e), (f), (g), and (h), respectively.

(d) Section 2(d) of such Act, as redesignated by subsection (c) of this section, is amended by striking out ", reprocessed wool, or reused wool" and inserting in lieu thereof "or recycled wool".

15 USC 68b.

SEC. 2. Section 4(a)(2)(A) of the Wool Products Labeling Act of 1939 is amended—

(1) by striking out "(2) reprocessed wool; (3) reused wool" and inserting in lieu thereof "(2) recycled wool";

(2) by striking out "(4)" and inserting in lieu thereof "(3)"; and

(3) by striking out "(5)" and by inserting in lieu thereof "(4)".

Effective date.
15 USC 68 note.

SEC. 3. The amendments made by this Act shall take effect with respect to wool products manufactured on or after the date sixty days after the date of enactment of this Act.

Approved May 5, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-795 (Comm. on Interstate and Foreign Commerce).
SENATE REPORT No. 96-655 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Mar. 11, considered and passed House.
Apr. 23, considered and passed Senate.

Public Law 96-243
96th Congress

Joint Resolution

Making an urgent appropriation for the food stamp program for the fiscal year ending September 30, 1980, for the Department of Agriculture.

May 16, 1980
[H.J. Res. 545]

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sum is appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1980, namely:

Food stamp program, additional appropriations.

DEPARTMENT OF AGRICULTURE

FOOD STAMP PROGRAM

For an additional amount for the "Food Stamp Program", $2,556,174,000: *Provided,* That funds provided herein shall remain available until September 30, 1980, in accordance with section 18(a) of the Food Stamp Act: *Provided further,* That up to 5 per centum of the foregoing amount may be placed in reserve to be apportioned pursuant to section 3679 of the Revised Statutes, as amended, for use only in such amounts and at such times as may become necessary to carry out program operations: *Provided further,* That the Department of Agriculture is directed to study the effects of regulations which would limit benefits to participants in the food stamp program based upon value of the participants' assets, shall recommend an appropriate level of asset value which would deny or reduce benefits to a participant and analyze the impacts of such a restriction. Appropriate exemptions to this restriction should be considered. The Department is to analyze the administrative burden which this will impose upon the States. The Department is to report to Congress its findings in this matter not later than January 15, 1981: *Provided further,* That the Secretary of Agriculture shall study the impact and advisability of counting, for the purposes of income in determining eligibility: all educational loans on which payment is deferred; grants, fellowships, scholarships, and veteran's educational benefits used for the payment of tuition and mandatory fees at any educational institution of higher learning; and all housing subsidies including, but not limited to payments made by an outside party on behalf of an individual or household. The Department is to report to Congress its findings in this matter not later than January 15, 1981: *Provided further,* That notwithstanding any other provision of law, the Secretary of Agriculture shall make the determination on benefit reductions required by section 18 of the Food Stamp Act of 1977, as amended, on the basis of a total appropriation for fiscal year 1980 of $9,191,000,000: *Provided further,* That total appropriations shall not exceed $9,191,000,000 for fiscal year 1980.

7 USC 2027.

31 USC 665.

Regulatory effects of benefit limitations, study.
7 USC 2014 note.

Report to Congress.
7 USC 2014 note.

Report to Congress.

7 USC 2027.

Approved May 16, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 96-927 (Comm. on Appropriations) and No. 96-973 (Comm. of Conference).

CONGRESSIONAL RECORD, Vol. 126 (1980):

May 13, considered and passed House.

May 14, considered and passed Senate, amended.

May 15, House agreed to conference report; receded and concurred in Senate amendments with amendments; Senate agreed to conference report and concurred in House amendments.

Public Law 96-244
96th Congress

An Act

May 19, 1980
[H.R. 126]

To permit the Secretary of the Interior to accept privately donated funds and to expend such funds on property on the National Register of Historic Places.

Department of the Interior. Privately donated funds, acceptance and expenditure.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act entitled "An Act to establish a program for the preservation of additional historic properties throughout the Nation, and for other purposes", approved October 15, 1966 (80 Stat. 915; as amended, 16 U.S.C. 470a), is further amended by adding a new section 109 as follows:

16 USC 470h-1.

"SEC. 109. (a) In furtherance of the purposes of this Act, the Secretary may accept the donation of funds which may be expended by him for projects to acquire, restore, preserve, or recover data from any district, building, structure, site, or object which is listed on the National Register of Historic Places established pursuant to section 101 of this Act, so long as the project is owned by a State, any unit of local government, or any nonprofit entity.

16 USC 470a.

"(b) In expending said funds, the Secretary shall give due consideration to the following factors: the national significance of the project; its historical value to the community; the imminence of its destruction or loss; and the expressed intentions of the donor. Funds expended under this subsection shall be made available without regard to the matching requirements established by section 102 of this Act, but the recipient of such funds shall be permitted to utilize them to match any grants from the Historic Preservation Fund established by section 108 of this Act.

16 USC 470b.

16 USC 470h.

Transfer of funds.

"(c) The Secretary is hereby authorized to transfer unobligated funds previously donated to the Secretary for the purposes of the National Park Service, with the consent of the donor, and any funds so transferred shall be used or expended in accordance with the provisions of this Act.".

Appropriation authorization. 16 USC 470t.

SEC. 2. The Act referred to in the preceding section is further amended in subsection 212(a) by changing the period at the end thereof to a comma, and inserting the following: "$2,500,000 in fiscal year 1981, $2,500,000 in fiscal year 1982, and $2,500,000 in fiscal year 1983."

Approved May 19, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-592 (Comm. on Interior and Insular Affairs).
SENATE REPORT No. 96-625 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 125 (1979): Nov. 27, considered and passed House.
Vol. 126 (1980): Mar. 19, considered and passed Senate, amended.
May 1, House concurred in certain Senate amendments and in others with amendments.
May 6, Senate concurred in House amendments.

Public Law 96-245
96th Congress

An Act

To authorize the use of certified mail for the transmission or service of matter which, if mailed, is required by certain Federal laws to be transmitted or served by registered mail, and for other purposes.

May 21, 1980
[H.R. 5673]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the first section of the Act of June 11, 1960 (74 Stat. 200), is amended by adding at the end thereof the following new paragraph:

National Labor Relations Board, use of certified mail.

"(57) Section 11(4) of the National Labor Relations Act (29 U.S.C. 161(4)) is amended—

"(A) by inserting 'or certified' after 'registered' each place it appears; and

"(B) by inserting 'when' after 'mailed or'.".

Approved May 21, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-659 (Comm. on Post Office and Civil Service).
SENATE REPORT No. 96-678 accompanying S. 2101 (Comm. on Governmental Affairs).
CONGRESSIONAL RECORD:
Vol. 125 (1979): Dec. 3, considered and passed House.
Vol. 126 (1980): May 7, considered and passed House in lieu of S. 2101.

Public Law 96-246
96th Congress

An Act

May 23, 1980
[H.R. 6839]

To authorize appropriations under the Endangered Species Act of 1973 to carry out State cooperative programs through fiscal year 1982.

Endangered Species Act of 1973, appropriation authorization.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 6 of the Endangered Species Act of 1973 (16 U.S.C. 1535) is further amended by striking out paragraph (2) of subsection (i) in its entirety and inserting in lieu thereof the following:

"(2) $12,000,000 for the period beginning October 1, 1977, and ending September 30, 1980.

"(3) $12,000,000 for the period beginning October 1, 1980, and ending September 30, 1982.".

Approved May 23, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-896 (Comm. on Merchant Marine and Fisheries).
CONGRESSIONAL RECORD, Vol. 126 (1980):
May 5, considered and passed House.
May 12, considered and passed Senate.

Public Law 96-247
96th Congress

An Act

May 23, 1980
[H.R. 10]

To authorize actions for redress in cases involving deprivations of rights of institutionalized persons secured or protected by the Constitution or laws of the United States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Civil Rights of Institutionalized Persons Act".

Civil Rights of Institutionalized Persons Act.
42 USC 1997 note.

SEC. 2. DEFINITIONS.

42 USC 1997.

As used in this Act—

(1) The term "institution" means any facility or institution—

(A) which is owned, operated, or managed by, or provides services on behalf of any State or political subdivision of a State; and

(B) which is—

(i) for persons who are mentally ill, disabled, or retarded, or chronically ill or handicapped;

(ii) a jail, prison, or other correctional facility;

(iii) a pretrial detention facility;

(iv) for juveniles—

(I) held awaiting trial;

(II) residing in such facility or institution for purposes of receiving care or treatment; or

(III) residing for any State purpose in such facility or institution (other than a residential facility providing only elementary or secondary education that is not an institution in which reside juveniles who are adjudicated delinquent, in need of supervision, neglected, placed in State custody, mentally ill or disabled, mentally retarded, or chronically ill or handicapped); or

(v) providing skilled nursing, intermediate or long-term care, or custodial or residential care.

(2) Privately owned and operated facilities shall not be deemed "institutions" under this Act if—

(A) the licensing of such facility by the State constitutes the sole nexus between such facility and such State;

(B) the receipt by such facility, on behalf of persons residing in such facility, of payments under title XVI, XVIII, or under a State plan approved under title XIX, of the Social Security Act, constitutes the sole nexus between such facility and such State; or

42 USC 1381, 1395.
42 USC 1396.

(C) the licensing of such facility by the State, and the receipt by such facility, on behalf of persons residing in such facility, of payments under title XVI, XVIII, or under a State plan approved under title XIX, of the Social Security Act, constitutes the sole nexus between such facility and such State;

(3) The term "person" means an individual, a trust or estate, a partnership, an association, or a corporation;

(4) The term "State" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, or any of the territories and possessions of the United States;

(5) The term "legislative days" means any calendar day on which either House of Congress is in session.

42 USC 1997a.

SEC. 3. INITIATION OF ACTIONS.

(a) Whenever the Attorney General has reasonable cause to believe that any State or political subdivision of a State, official, employee, or agent thereof, or other person acting on behalf of a State or political subdivision of a State is subjecting persons residing in or confined to an institution, as defined in section 2, to egregious or flagrant conditions which deprive such persons of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States causing such persons to suffer grievous harm, and that such deprivation is pursuant to a pattern or practice of resistance to the full enjoyment of such rights, privileges, or immunities, the Attorney General, for or in the name of the United States, may institute a civil action in any appropriate United States district court against such party for such equitable relief as may be appropriate to insure the minimum corrective measures necessary to insure the full enjoyment of such rights, privileges, or immunities, except that such equitable relief shall be available under this Act to persons residing in or confined to an institution as defined in section 2(1)(B)(ii) only insofar as such persons are subjected to conditions which deprive them of rights, privileges, or immunities secured or protected by the Constitution of the United States.

USC prec. title 1.

Attorney's fee, allowance.

(b) In any action commenced under this section, the court may allow the prevailing party, other than the United States, a reasonable attorney's fee against the United States as part of the costs.

(c) Any complaint filed by the Attorney General pursuant to this section shall be personally signed by him.

42 USC 1997b.

SEC. 4. CERTIFICATION REQUIREMENTS.

(a) At the time of the commencement of an action under section 2 the Attorney General shall certify to the court—

(1) that at least 49 calendar days previously he has notified in writing the Governor or chief executive officer and attorney general or chief legal officer of the appropriate State or political subdivision and the director of the institution of—

(A) the alleged conditions which deprive rights, privileges, or immunities secured or protected by the Constitution or laws of the United States and the alleged pattern or practice of resistance to the full enjoyment of such rights, privileges, or immunities;

(B) the supporting facts giving rise to the alleged conditions and the alleged pattern or practice, including the dates or time period during which the alleged conditions and pattern or practice of resistance occurred; and when feasible, the identity of all persons reasonably suspected of being involved in causing the alleged conditions and pattern or practice at the time of the certification, and the date on which the alleged conditions and pattern or practice were first brought to the attention of the Attorney General; and

(C) the minimum measures which he believes may remedy the alleged conditions and the alleged pattern or practice of resistance;

(2) that he has notified in writing the Governor or chief executive officer and attorney general or chief legal officer of the appropriate State or political subdivision and the director of the institution of his intention to commence an investigation of such institution, that such notice was delivered at least seven days prior to the commencement of such investigation and that between the time of such notice and the commencement of an action under section 3 of this Act— Notification of investigation.

(A) he has made a reasonable good faith effort to consult with the Governor or chief executive officer and attorney general or chief legal officer of the appropriate State or political subdivision and the director of the institution, or their designees, regarding financial, technical, or other assistance which may be available from the United States and which he believes may assist in the correction of such conditions and pattern or practice of resistance;

(B) he has encouraged the appropriate officials to correct the alleged conditions and pattern or practice of resistance through informal methods of conference, conciliation and persuasion, including, to the extent feasible, discussion of the possible costs and fiscal impacts of alternative minimum corrective measures, and it is his opinion that reasonable efforts at voluntary correction have not succeeded; and

(C) he is satisfied that the appropriate officials have had a reasonable time to take appropriate action to correct such conditions and pattern or practice, taking into consideration the time required to remodel or make necessary changes in physical facilities or relocate residents, reasonable legal or procedural requirements, the urgency of the need to correct such conditions, and other circumstances involved in correcting such conditions; and

(3) that he believes that such an action by the United States is of general public importance and will materially further the vindication of rights, privileges, or immunities secured or protected by the Constitution or laws of the United States. USC prec. title 1.

(b) Any certification made by the Attorney General pursuant to this section shall be personally signed by him.

SEC. 5. INTERVENTION IN ACTIONS. 42 USC 1997c.

(a)(1) Whenever an action has been commenced in any court of the United States seeking relief from egregious or flagrant conditions which deprive persons residing in institutions of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States causing them to suffer grievous harm and the Attorney General has reasonable cause to believe that such deprivation is pursuant to a pattern or practice of resistance to the full enjoyment of such rights, privileges, or immunities, the Attorney General, for or in the name of the United States, may intervene in such action upon motion by the Attorney General.

(2) The Attorney General shall not file a motion to intervene under paragraph (1) before 90 days after the commencement of the action, except that if the court determines it would be in the interests of justice, the court may shorten or waive the time period.

(b)(1) The Attorney General shall certify to the court in the motion to intervene filed under subsection (a)— Certification to court.

(A) that he has notified in writing, at least fifteen days previously, the Governor or chief executive officer, attorney

general or chief legal officer of the appropriate State or political subdivision, and the director of the institution of—

(i) the alleged conditions which deprive rights, privileges, or immunities secured or protected by the Constitution or laws of the United States and the alleged pattern or practice of resistance to the full enjoyment of such rights, privileges, or immunities;

(ii) the supporting facts giving rise to the alleged conditions, including the dates and time period during which the alleged conditions and pattern or practice of resistance occurred; and

(iii) to the extent feasible and consistent with the interests of other plaintiffs, the minimum measures which he believes may remedy the alleged conditions and the alleged pattern or practice of resistance; and

(B) that he believes that such intervention by the United States is of general public importance and will materially further the vindication of rights, privileges, or immunities secured or protected by the Constitution or laws of the United States.

(2) Any certification made by the Attorney General pursuant to this subsection shall be personally signed by him.

(c) Any motion to intervene made by the Attorney General pursuant to this section shall be personally signed by him.

Attorney's fee, allowance.

(d) In any action in which the United States joins as an intervenor under this section, the court may allow the prevailing party, other than the United States, a reasonable attorney's fee against the United States as part of the costs. Nothing in this subsection precludes the award of attorney's fees available under any other provisions of the United States Code.

42 USC 1997d.

SEC. 6. PROHIBITION OF RETALIATION.

No person reporting conditions which may constitute a violation under this Act shall be subjected to retaliation in any manner for so reporting.

42 USC 1997e.

SEC. 7. EXHAUSTION OF REMEDIES.

(a)(1) Subject to the provisions of paragraph (2), in any action brought pursuant to section 1979 of the Revised Statutes of the United States (42 U.S.C. 1983) by an adult convicted of a crime confined in any jail, prison, or other correctional facility, the court shall, if the court believes that such a requirement would be appropriate and in the interests of justice, continue such case for a period of not to exceed ninety days in order to require exhaustion of such plain, speedy, and effective administrative remedies as are available.

(2) The exhaustion of administrative remedies under paragraph (1) may not be required unless the Attorney General has certified or the court has determined that such administrative remedies are in substantial compliance with the minimum acceptable standards promulgated under subsection (b).

Grievance resolution standards.

(b)(1) No later than one hundred eighty days after the date of enactment of this Act, the Attorney General shall, after consultation with persons, State and local agencies, and organizations with background and expertise in the area of corrections, promulgate minimum standards for the development and implementation of a plain, speedy, and effective system for the resolution of grievances of adults confined in any jail, prison, or other correctional facility. The Attorney General shall submit such proposed standards for publica-

Publication in Federal Register.

tion in the Federal Register in accordance with section 553 of title 5, United States Code. Such standards shall take effect thirty legislative days after publication unless, within such period, either House of Congress adopts a resolution of disapproval of such standards.

Effective date.

(2) The minimum standards shall provide—

Minimum standards provisions.

(A) for an advisory role for employees and inmates of any jail, prison, or other correctional institution (at the most decentralized level as is reasonably possible), in the formulation, implementation, and operation of the system;

(B) specific maximum time limits for written replies to grievances with reasons thereto at each decision level within the system;

(C) for priority processing of grievances which are of an emergency nature, including matters in which delay would subject the grievant to substantial risk of personal injury or other damages;

(D) for safeguards to avoid reprisals against any grievant or participant in the resolution of a grievance; and

(E) for independent review of the disposition of grievances, including alleged reprisals, by a person or other entity not under the direct supervision or direct control of the institution.

(c)(1) The Attorney General shall develop a procedure for the prompt review and certification of systems for the resolution of grievances of adults confined in any jail, prison, or other correctional facility, or pretrial detention facility, to determine if such systems, as voluntarily submitted by the various States and political subdivisions, are in substantial compliance with the minimum standards promulgated under subsection (b).

Prompt review and certification of systems procedure.

(2) The Attorney General may suspend or withdraw the certification under paragraph (1) at any time that he has reasonable cause to believe that the grievance procedure is no longer in substantial compliance with the minimum standards promulgated under subsection (b).

Suspension or withdrawal of certification.

(d) The failure of a State to adopt or adhere to an administrative grievance procedure consistent with this section shall not constitute the basis for an action under section 3 or 5 of this Act.

42 USC 1997f.

SEC. 8. REPORT TO CONGRESS.

The Attorney shall include in his report to Congress on the business of the Department of Justice prepared pursuant to section 522 of title 28, United States Code—

(1) a statement of the number, variety, and outcome of all actions instituted pursuant to this Act including the history of, precise reasons for, and procedures followed in initiation or intervention in each case in which action was commenced;

(2) a detailed explanation of the procedures by which the Department has received, reviewed and evaluated petitions or complaints regarding conditions in institutions;

(3) an analysis of the impact of actions instituted pursuant to this Act, including, when feasible, an estimate of the costs incurred by States and other political subdivisions;

(4) a statement of the financial, technical, or other assistance which has been made available from the United States to the State in order to assist in the correction of the conditions which are alleged to have deprived a person of rights, privileges, or immunities secured or protected by the Constitution or laws of the United States; and

USC prec. title 1.

(5) the progress made in each Federal institution toward meeting existing promulgated standards for such institutions or constitutionally guaranteed minima.

42 USC 1997g.

SEC. 9. PRIORITIES FOR USE OF FUNDS.

(a) It is the intent of Congress that deplorable conditions in institutions covered by this Act amounting to deprivations of rights protected by the Constitution or laws of the United States be corrected, not only by litigation as contemplated in this Act, but also by the voluntary good faith efforts of agencies of Federal, State, and local governments. It is the further intention of Congress that where Federal funds are available for use in improving such institutions, priority should be given to the correction or elimination of such unconstitutional or illegal conditions which may exist. It is not the intent of this provision to require the redirection of funds from one program to another or from one State to another.

USC prec. title 1.

42 USC 1997h.

SEC. 10. NOTICE TO FEDERAL DEPARTMENTS.

At the time of notification of the commencement of an investigation of an institution under section 3 or of the notification of an intention to file a motion to intervene under section 5 of this Act, and if the relevant institution receives Federal financial assistance from the Department of Health and Human Services or the Department of Education, the Attorney General shall notify the appropriate Secretary of his action and the reasons for such action and shall consult with such officials. Following such consultation, the Attorney General may proceed with an action under this Act if he is satisfied that such action is consistent with the policies and goals of the executive branch.

42 USC 1997i.

SEC. 11. DISCLAIMER—STANDARDS OF CARE.

Provisions of this Act shall not authorize promulgation of regulations defining standards of care.

42 USC 1997j.

SEC. 12. DISCLAIMER—PRIVATE LITIGATION.

The provisions of this Act shall in no way expand or restrict the authority of parties other than the United States to enforce the legal rights which they may have pursuant to existing law with regard to institutionalized persons. In this regard, the fact that the Attorney General may be conducting an investigation or contemplating litigation pursuant to this Act shall not be grounds for delay of or prejudice to any litigation on behalf of parties other than the United States.

Approved May 23, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 96-80 (Comm. on the Judiciary) and No. 96-897 (Comm. of Conference).

SENATE REPORT No. 96-416 accompanying S. 10 (Comm. on the Judiciary).

CONGRESSIONAL RECORD:

Vol. 125 (1979): May 16, 23, considered and passed House.
May 24, considered in Senate.

Vol. 126 (1980): Feb. 26, 27, S. 10 considered in Senate.
Feb. 28, H.R. 10 considered and passed Senate, amended, in lieu of S. 10.
Apr. 23-25, 28-30, May 1, 6, Senate considered and agreed to conference report.
May 12, House agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:

Vol. 16, No. 21 (1980): May 23, Presidential statement.

Public Law 96-248
96th Congress

An Act

To amend the Act of November 8, 1978 (92 Stat. 3095), to designate certain Cibola National Forest lands as additions to the Sandia Mountain Wilderness, New Mexico.

May 23, 1980
[H.R. 3928]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3 of the Act of November 8, 1978 (92 Stat. 3096), is amended by adding the following new subsection at the end thereof:

Cibola National Forest, N. Mex.

"(c) In furtherance of the purposes of the Wilderness Act of 1964 (78 Stat. 890) and section 2(g) of the Endangered American Wilderness Act of 1978 (92 Stat. 42), the western exterior boundary of the Sandia Mountain Wilderness is extended to a line beginning at the closing corner between sections 35 and 36 of township 11 north, range 4 east, on the south boundary of the Elena Gallegos Grant and extending north 2,700 feet; thence east 1,515 feet; thence north 1,260 feet; thence east 3,160 feet; thence north 4,125 feet; thence north 42 degrees east, 4,480 feet; thence north 1,710 feet; thence west 3,235 feet; thence north 19 degrees west, 2,350 feet; thence west 1,400 feet; thence north 3,820 feet to a point on the north boundary of such grant; thence south 81 degrees 30 minutes east, 150 feet along the boundary of such grant to the 7½-mile corner. Such boundary will enclose approximately 6,423 acres of the lands in the grant as it is described in section 1 of this Act. Such lands, upon acquisition by the United States, will be administered as a part of the Sandia Mountain Wilderness. Subject to valid existing rights, all lands within the Sandia Mountain Wilderness, including those lands added to such wilderness by operation of this Act, and all other lands in the grant described in section 1 of this Act which have been or may hereafter be acquired by the United States, are hereby withdrawn from all forms of entry or appropriation under the mining laws and from the operation of the mineral leasing laws of the United States.

Sandia Mountain Wilderness, boundary extension.
16 USC 1131 note.
16 USC 1132 note.

Mining and mineral leasing laws.

SEC. 2. Section 4 of the Act of November 8, 1978, is amended by changing "$12,000,000" to "$20,000,000".

92 Stat. 3096.

Albuquerque, N. Mex., purchase option. 92 Stat. 3095.

SEC. 3. The proviso in section 1 of the Act of November 8, 1978, is amended to read as follows: "*Provided*, That the tract of land described in this section shall not be included within the exterior boundaries of the Cibola National Forest until the Secretary of Agriculture determines that the city of Albuquerque, New Mexico, has acquired an option to purchase a tract of land containing approximately 640 acres located immediately to the west of such tract for open space or city park use: *And provided further*, That if such option is not exercised the tract of land described in this section shall no longer be included within the exterior boundaries of the Cibola National Forest.".

Approved May 23, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-679 (Comm. on Interior and Insular Affairs).
SENATE REPORT No. 96-666 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 125 (1979): Dec. 17, considered and passed House.
Vol. 126 (1980): May 5, considered and passed Senate, amended.
May 7, House concurred in Senate amendments.

Public Law 96-249
96th Congress

An Act

To amend the Food Stamp Act of 1977 to improve food stamp program fiscal accountability through reductions in inaccurate eligibility and benefit determinations; to improve the system of deductions; to increase the specific dollar limitations on appropriations for the fiscal years 1980 and 1981 food stamp programs; and for other purposes.

May 26, 1980
[S. 1309]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Food Stamp Act Amendments of 1980".

Food Stamp Act Amendments of 1980.
7 USC 2011 note.

TITLE I—REDUCTION IN FOOD STAMP ERROR AND FRAUD AND REVISION OF DEDUCTIONS

MEALS IN SHELTERS FOR BATTERED WOMEN AND CHILDREN

SEC. 101. (a) Section 3 of the Food Stamp Act of 1977 is amended by— 7 USC 2012.

(1) striking out in clause (1) of subsection (g) "and (7)" and inserting in lieu thereof "(7), and (8)"; 93 Stat. 392.

(2) striking out in subsection (g) "and (7)" and inserting in lieu thereof "(7)";

(3) inserting immediately before the period at the end of subsection (g) the following: ", and (8) in the case of women and children temporarily residing in public or private nonprofit shelters for battered women and children, meals prepared and served, by such shelters";

(4) inserting in the last sentence of subsection (i) after "section 1616(e) of the Social Security Act," the following: "temporary residents of public or private nonprofit shelters for battered women and children,"; and 42 USC 1382e.

(5) striking out in clause (2) of subsection (k) "and (7)" and inserting in lieu thereof "(7), and (8)".

(b) Section 10 of the Food Stamp Act of 1977 is amended as follows: 93 Stat. 392. 7 USC 2019.

(1) inserting after "purchased" a comma;

(2) striking out the comma immediately after "residents"; and

(3) inserting after "programs" the following: ", public and private nonprofit shelters that prepare and serve meals for battered women and children".

EXCLUDING ENERGY ASSISTANCE PAYMENTS FROM INCOME

SEC. 102. Section 5(d) of the Food Stamp Act of 1977 is amended by— 7 USC 2014.

(1) striking out "and" before "(10)"; and

(2) inserting before the period at the end thereof the following: ", and (11) any payments or allowances made under any Federal, State, or local laws for the purpose of providing energy assistance".

CONSUMER PRICE INDEX

93 Stat. 390.
7 USC 2014.
Post, p. 369.

SEC. 103. Section 5(e) of the Food Stamp Act of 1977 is amended by inserting "for all urban consumers" after "Consumer Price Index" each time those words appear.

DEPENDENT CARE DEDUCTIONS FOR WORKING ADULTS

SEC. 104. Effective October 1, 1981, section 5(e) of the Food Stamp Act of 1977 is amended by—

(1) in the fourth sentence, amending clause (1) to read as follows: "(1) a dependent care deduction for the actual cost of payments necessary for the care of a dependent regardless of the dependent's age, the maximum allowable level of which shall be $90 per month, per household, when such care enables a household member to accept or continue employment, or training or education that is preparatory for employment, and";

(2) in the fourth sentence, striking out everything after "March 31" down to the period at the end of the sentence; and

(3) in clause (B), striking out "that for the excess shelter expense deduction contained in clause (2) of the preceding sentence" and inserting in lieu thereof the following: "described in clause (1) of the preceding sentence".

EXPANDED MEDICAL DEDUCTIONS FOR THE ELDERLY

SEC. 105. Effective October 1, 1981, section 5(e)(A) of the Food Stamp Act of 1977 is amended by—

(1) inserting "or their spouses" before ", exclusive of special diets,"; and

(2) striking out "$35" and inserting in lieu thereof "$25".

MEDICAL DEDUCTION FOR THE BLIND AND DISABLED IN CERTAIN AREAS

SEC. 106. Effective October 1, 1981, section 5(e) of the Food Stamp Act of 1977 is amended by:

(1) in the fourth and last sentences, inserting "and blindness" after each time "disability" appears; and

(2) in the fourth and last sentences, striking out "title II" each time that it appears and inserting in lieu thereof: "titles I, II, X, XIV, and XVI".

RETROSPECTIVE ACCOUNTING

7 USC 2014.

SEC. 107. Section 5(f) of the Food Stamp Act of 1977 is amended to read as follows:

"(f) Household income for those households that by contract for other than an hourly or piecework basis, or by self-employment, derive their annual income in a period of time shorter than one year, shall be calculated by the State agency for the purpose of determining household eligibility by being averaged over a twelve-month period. For those households that receive nonexcluded income of the type specified in subsection (d)(3) of this section, such income shall be calculated by being averaged over the period for which it is provided. State agencies shall elect and use one of the following two methods in calculating income for all other households:

"(1) taking into account the income reasonably anticipated to be received by the household in the certification period for which

eligibility is being determined and the income that has been received by the household during the thirty days preceding the filing of its application for food stamps so that the State agency may reasonably ascertain the income that is and will be actually available to the household for the certification period; or

"(2) using income received in a previous month as the basis, in accordance with standards prescribed by the Secretary, except for the month of application and subsequent months specified by the Secretary for newly applying households (other than households reapplying within thirty days after the end of a prior certification period). In addition, the Secretary shall make modifications or exceptions to this method of income calculation with respect to households experiencing sudden and significant losses of income (including households experiencing losses of income of $50 per month or more) or the addition of a new member, households in immediate need in accordance with the provisions of section 11(e)(9) of this Act, migrant farmworker households, and other classes of households if the Secretary determines that this method of income calculation would be impracticable to administer or would cause serious hardship for such households. In promulgating regulations governing the method of income calculation described in this subsection, the Secretary shall consult with the Secretary of Health and Human Services so that, wherever feasible, and consistent with the purposes of the applicable Acts, households receiving income under title IV-A of the Social Security Act shall have income calculated on a consolidated and comparable basis.".

7 USC 2020.

Regulations, consultation with Secretary of Health and Human Services.

42 USC 601.

VEHICLE USE BY HANDICAPPED HOUSEHOLD MEMBERS

SEC. 108. The second sentence of section 5(g) of the Food Stamp Act of 1977 is amended by—

7 USC 2014.

(1) inserting after "other than one used to produce earned income" the following: "or that is necessary for transportation of a physically disabled household member"; and

(2) striking out "or to transport disabled household members".

STATE OPTION ON ADMINISTRATIVE FRAUD HEARINGS

SEC. 109. Section 6(b) of the Food Stamp Act of 1977 is amended by inserting after the first sentence thereof a new sentence as follows: "Each State agency shall proceed against such alleged fraudulent activity either by way of administrative fraud hearings in accordance with clause (1) of this subsection or by referring such matters to appropriate legal authorities for civil or criminal action in accordance with clause (2) of this subsection, or both.".

93 Stat. 391.
7 USC 2015.

PERIODIC REPORTING

SEC. 110. Section 6(c) of the Food Stamp Act of 1977 is amended by striking out everything after the first sentence and inserting in lieu thereof the following:

7 USC 2015.

"(1) State agencies that elect to use a system of retrospective accounting in accordance with section 5(f)(2) of this Act shall require certain categories of households to file periodic reports of household circumstances in accordance with standards prescribed by the Secretary. Other State agencies, which have received the approval of the Secretary, may also require such

Ante, p. 358.

categories of households to file periodic reports. Each household that is not required to file such periodic reports on a monthly basis shall be required to report or cause to be reported to the State agency, on a form designed or approved by the Secretary, changes in income or household circumstances which the Secretary deems necessary in order to assure accurate eligibility and benefit determinations.

"(2) Any household required to file a periodic report under paragraph (1) of this subsection shall, (A) if it is eligible to participate and has filed a timely and complete report, receive its allotment, based on the reported information for a given month, within thirty days of the end of that month unless the Secretary determines that a longer period of time is necessary, (B) have available special procedures that permit the filing of the required information in the event all adult members of the household are mentally or physically handicapped or lacking in reading or writing skills to such a degree as to be unable to fill out the required forms, (C) have a reasonable period of time after the close of the month in which to file their reports on forms approved by the Secretary, and (D) be afforded prompt notice of failure to file any report timely or completely, and given a reasonable opportunity to cure that failure (with any applicable time requirements extended accordingly) and to exercise its rights under section 11(e)(10) of this Act.

7 USC 2020.

"(3) Reports required to be filed under paragraph (1) of this subsection shall be considered complete if, in accordance with standards prescribed by the Secretary, they contain sufficient information to enable the State agency to determine household eligibility and allotment levels. All report forms, including those related to periodic reports of circumstances, shall contain a description, in understandable terms in prominent and bold face lettering, of the appropriate civil and criminal provisions dealing with violations of this Act including the prescribed penalties. The reporting requirements contained in paragraph (1) of this subsection shall be the sole such requirements for reporting changes in circumstances for participating households. In promulgating regulations implementing these reporting requirements, the Secretary shall consult with the Secretary of Health and Human Services, and, wherever feasible, households that receive assistance under title IV-A of the Social Security Act and that are required to file comparable reports under that Act shall be provided the opportunity to file reports at the same time for purposes of both Acts.".

Regulations, consultation with Secretary of Health and Human Services. 42 USC 601.

CONFORMING AMENDMENTS FOR RETROSPECTIVE ACCOUNTING AND PERIODIC INCOME REPORTING

7 USC 2012.

SEC. 111. Section 3(c) of the Food Stamp Act of 1977 is amended to read as follows:

"Certification period."

"(c) 'Certification period' means the period for which households shall be eligible to receive authorization cards. For those households that are required to submit periodic reports under section 6(c)(1) of this Act, the certification period shall be at least six months but no longer than twelve months. For households that are not required to submit periodic reports, the certification period shall be determined as follows:

"(1) In the case of a household all of whose members are included in a federally aided public assistance or general assistance grant, the period shall coincide with the period of such grant.

"(2) In the case of all other households, the period shall be not less than three months: *Provided,* That such period may be up to twelve months for any household consisting entirely of unemployable or elderly or primarily self-employed persons, or as short as circumstances require for those households as to which there is a substantial likelihood of frequent changes in income or household status, and for any household on initial certification, as determined by the Secretary.".

SEC. 112. Section 5(d)(2) of the Food Stamp Act of 1977 is amended by inserting after the second comma the following: "subject to modification by the Secretary in light of section 5(f)(2) of this Act,". 7 USC 2014. *Ante*, p. 358.

SEC. 113. Section 11(e)(4) of the Food Stamp Act of 1977 is amended by inserting immediately after "subsection" the following: ": *Provided,* That the timeliness standards for submitting the notice of expiration and filing an application for recertification may be modified by the Secretary in light of sections 5(f)(2) and 6(c) of this Act if administratively necessary". 7 USC 2020. *Ante*, pp. 358, 359.

PARTICIPATION BY STRIKERS

SEC. 114. Section 6(d) of the Food Stamp Act of 1977 is amended by adding at the end thereof a new paragraph (4) as follows: 7 USC 2015.

"(4) Notwithstanding any other provision of law, a household shall not participate in the food stamp program at any time that any member of such household, not exempt from the work registration requirements of paragraph (1) of this subsection, is on strike as defined in section 501(2) of the Labor Management Relations Act, 1947, because of a labor dispute (other than a lockout) as defined in section 2(9) of the National Labor Relations Act: *Provided,* That a household shall not lose its eligibility to participate in the food stamp program as a result of one of its members going on strike if the household was eligible for food stamps immediately prior to such strike: *Provided further,* That such ineligibility shall not apply to any household that does not contain a member on strike, if any of its members refuses to accept employment at a plant or site because of a strike or lockout: *Provided further,* That such ineligibility shall not apply if the household meets the income qualifications, assets requirements, and work registration requirements, as mandated in subsection (i) of this section.". 29 USC 142. 29 USC 152.

INCOME AND RESOURCES OF INELIGIBLE ALIEN

SEC. 115. Section 6(f) of the Food Stamp Act of 1977 is amended by adding at the end thereof a new sentence as follows: "The income (less a pro rata share) and financial resources of the individual rendered ineligible to participate in the food stamp program under this subsection shall be considered in determining the eligibility and the value of the allotment of the household of which such individual is a member.". 7 USC 2015.

MATCHING OF INCOME INFORMATION AND OTHER VERIFICATION

SEC. 116. Section 11(e)(3) of the Food Stamp Act of 1977 is amended by— 7 USC 2020.

(1) inserting after "section 5(d) of this Act" the following: "(in part through the use of the information, if any, obtained under subsections (h) and (i) of section 16 of this Act)"; and

Post, p. 367.

(2) inserting after "sections 5 and 6 of this Act," the following: "although the State agency may verify prior to certification, whether questionable or not, the size of any applicant household and any factors of eligibility involving households that fall within the State agency's error-prone household profiles as developed by the State agency from the quality control program conducted under section 16 of this Act and as approved by the Secretary,".

7 USC 2025.

PHOTO IDENTIFICATION

7 USC 2020.

SEC. 117. Section 11(e) of the Food Stamp Act of 1977, as amended, is amended by striking out "and" at the end of paragraph (15), and adding at the end thereof a new paragraph (17) as follows:

"(17) that the State agency shall require each household certified as eligible to participate by methods other than the out-of-office methods specified in the last sentence of paragraph (2) of this subsection in those project areas or parts of project areas in which the Secretary, in consultation with the Department's Inspector General, finds that it would be useful to protect the program's integrity, to present a photographic identification card when using its authorization card in order to receive its coupons;".

REPORTING ILLEGAL ALIENS

SEC. 118. Section 11(e) of the Food Stamp Act of 1977, as amended by section 117 of this Act, is amended by adding at the end thereof a new paragraph (18) as follows:

"(18) notwithstanding paragraph (8) of this subsection, for the immediate reporting to the Immigration and Naturalization Service by the State agency of a determination by personnel responsible for the certification or recertification of households that any member of a household is ineligible to receive food stamps because that member is present in the United States in violation of the Immigration and Nationality Act;".

8 USC 1101 note.

COMPUTERIZATION

SEC. 119. Section 11(e) of the Food Stamp Act of 1977, as amended by section 118 of this Act, is amended by inserting "and" at the end of paragraph (18) and adding at the end thereof a new paragraph (19) as follows:

7 USC 2020.

"(19) at the option of the State agency, for the establishment and operation of an automatic data processing and information retrieval system that meets such conditions as the Secretary may prescribe and that is designed to provide efficient and effective administration of the food stamp program.".

STATE COMPLIANCE WITH LAW

SEC. 120. Section 11(g) of the Food Stamp Act of 1977 is amended by—

(1) inserting after "determines" the following: ", upon information received by the Secretary, investigation initiated by the Secretary, or investigation that the Secretary shall initiate upon receiving sufficient information evidencing a pattern of lack of

compliance by a State agency of a type specified in this subsection,";

(2) inserting "without good cause" before "to comply";

(3) striking out "or" before "the State plan of operation";

(4) inserting after "section," the following: "or the Secretary's standards for the efficient and effective administration of the program established under section 16(b)(1) of this Act"; and 7 USC 2025.

(5) inserting before the period at the end of the second sentence the following: ", and, whether or not the Secretary refers such matter to the Attorney General, the Secretary shall proceed to withhold from the State such funds authorized under sections 16(a) and 16(c) of this Act as the Secretary determines to be appropriate, subject to administrative and judicial review under section 14 of this Act.". 93 Stat. 391. 7 USC 2025. *Post*, p. 364. 7 USC 2023.

SEC. 121. Section 16(b) of the Food Stamp Act of 1977 is amended by striking out the last sentence thereof. 7 USC 2025.

SOCIAL SECURITY OFFICE APPLICATION

SEC. 122. Section 11(i)(2) of the Food Stamp Act of 1977 is amended by striking out "simplified affidavit" and inserting in lieu thereof "simple application". 7 USC 2020.

SPECIAL FINANCIAL AUDIT REVIEW OF HIGH PARTICIPATION STATES

SEC. 123. Section 11 of the Food Stamp Act of 1977 is amended by adding at the end thereof a new subsection (l) as follows:

"(l) Whenever the ratio of a State's average food stamp participation in any quarter of a fiscal year to the State's total population in that quarter (estimated on the basis of the latest available population estimates as provided by the Department of Commerce, Bureau of the Census, Series P-25, Current Population Reports (or its successor series)) exceeds 60 per centum, the Office of the Inspector General of the Department of Agriculture shall immediately schedule a financial audit review of a sample of project areas within that State, and shall, upon completion of the audit, provide a report to Congress of its findings and recommendations within one hundred and eighty days. Any financial audit review subsequent to the first such review, required under the preceding sentence, shall be conducted at the option of the Office of the Inspector General.".

FORFEITURE OF PROPERTY INVOLVED IN ILLEGAL FOOD STAMP TRANSACTIONS

SEC. 124. Section 15 of the Food Stamp Act of 1977 is amended by adding at the end thereof a new subsection (g) as follows: 7 USC 2024.

"(g) The Secretary may subject to forfeiture and denial of property rights any nonfood items, moneys, negotiable instruments, securities, or other things of value that are furnished or intended to be furnished by any person in exchange for coupons or authorization cards in any manner not authorized by this Act or the regulations issued under this Act. Any forfeiture and disposal of property forfeited under this subsection shall be conducted in accordance with procedures contained in regulations issued by the Secretary.".

STATE INCENTIVES FOR REDUCING ERROR

7 USC 2025.

SEC. 125. Section 16(c) of the Food Stamp Act of 1977 is amended by—

(1) striking out "Effective October 1, 1978, the" and inserting in lieu thereof "The";

(2) inserting "(1) effective October 1, 1978," after "such share to";

(3) inserting "(A)" after "State agency whose";

(4) inserting "semiannual" before "cumulative";

(5) striking out "section is less" and inserting in lieu thereof "section are less";

(6) inserting before the period at the end thereof the following: "and (B) whose rate of invalid decisions in denying eligibility as calculated in the quality control program conducted under subsection (d)(1) of this section is less than a nationwide percentage that the Secretary determines to be reasonable;

"(2) effective October 1, 1980, 65 per centum of all such administrative costs in the case of a State agency meeting the standards contained in paragraph (1) of this subsection;

"(3) effective October 1, 1980, 60 per centum of all such administrative costs in the case of a State agency whose cumulative allotment error rate as determined under paragraph (1)(A) of this subsection is greater than 5 per centum but less than 8 per centum or the national standard payment error rate for the base period, whichever is lower, and which also meets the standard contained in paragraph (1)(B) of this subsection; and

"(4) effective October 1, 1980, 55 per centum of all such administrative costs in the case of a State agency whose annual rate of error reduction is equal to or exceeds 25 per centum. No State agency shall receive more than one of the increased federally funded shares of administrative costs set forth in paragraphs (1) through (4) of this subsection".

STATE LIABILITY FOR ERRORS

SEC. 126. Section 16 of the Food Stamp Act of 1977 is amended by adding at the end thereof a new subsection (g) as follows:

"(g)(1) The Secretary shall institute an error liability program under which each State agency shall, other than for good cause as determined by the Secretary, pay to the Secretary or have withheld by the Secretary as described in paragraph (4) of this subsection, the amount by which the dollar value equivalent of the State agency's payment error rate, as determined by the Secretary, for each six-month period, exceeds the dollar value equivalent of either—

"(A) the State agency payment error rate for the base period less a national annual rate of error reduction, as determined by the Secretary, taking into account program circumstances and rates of error reduction in comparable Federal or federally assisted public assistance programs, or

"(B) the national standard payment error rate for the base period, whichever is higher.

Definitions.

"(2) As used in this subsection, (A) 'base period' means, for fiscal year 1981, the six months beginning October 1, 1979, and ending March 31, 1980 and, for each fiscal year thereafter, the six months beginning October 1 and ending March 30 of the prior fiscal year; (B) 'payment error rate' means the percentage of all food stamp allot-

ments which are issued in a given period by a State agency to households that fail to meet the eligibility requirements of sections 5 and 6 of this Act, are overissued to eligible households, and are underissued to eligible households; (C) 'national standard payment error rate' means the weighted mean payment error rate for all State agencies; and (D) 'dollar value equivalent' means the value of allotments determined by multiplying a given error rate by the dollar value of all the allotments issued by a State agency during the particular period in question.

7 USC 2014, 2015.

"(3) The Secretary shall conduct a study to determine whether it is feasible to include in the calculation of each State agency's payment error rate, and in the calculation of the national standard payment error rate, invalid decisions by each State agency denying eligibility to households that are in fact eligible. If the Secretary determines that such a change in the method of calculation is feasible, the Secretary shall implement changes in the method of calculating payment error rates for the purposes described in this section.

Feasibility study.

"(4) If the Secretary makes a claim against a State for payment under paragraph (1) of this subsection, that State may seek administrative and judicial review of such claim under the procedures set forth in section 14 of this Act. If such claim is ultimately determined to be valid or is not contested by the State, it shall be collected by the Secretary and may be collected through State payment, through withholding amounts otherwise payable to the State agency under subsection (a) of this section, or through other mechanisms authorized by the Federal Claims Collection Act of 1966.".

Administrative and judicial review.

7 USC 2023.

31 USC 951 note.

DISCLOSURE PROVISIONS

SEC. 127. (a)(1) Subsection (i) of section 6103 of the Internal Revenue Code of 1954 (relating to disclosure of returns and return information for purposes other than tax administration) is amended by adding at the end thereof the following new paragraph:

26 USC 6103.

"(7) DISCLOSURE OF CERTAIN RETURN INFORMATION BY SOCIAL SECURITY ADMINISTRATION TO DEPARTMENT OF AGRICULTURE AND TO STATE FOOD STAMP AGENCIES.—

"(A) IN GENERAL.—The Commissioner of Social Security may disclose return information from returns with respect to net earnings from self-employment (as defined in section 1402), wages (as defined in section 3121(a) or 3401(a)), and payments of retirement income which have been disclosed to the Social Security Administration as provided by paragraph (1) or (5) of this subsection—

26 USC 1402, 3121, 3401.

"(i) upon request, to officers and employees of the Department of Agriculture, and

"(ii) upon written request, to officers and employees of a State food stamp agency.

"(B) RESTRICTION ON DISCLOSURE.—The Commissioner of Social Security shall disclose return information under subparagraph (A) only for purposes of, and to the extent necessary in, determining an individual's eligibility for benefits, or the amounts of benefits, under the food stamp program established under the Food Stamp Act of 1977.

7 USC 2011 note.

"(C) STATE FOOD STAMP AGENCY.—For purposes of this paragraph, the term 'State food stamp agency' means any agency described in section 3(n)(1) of the Food Stamp Act of

7 USC 2012.

1977 which administers the food stamp program established under such Act.".

26 USC 6103.

(2)(A) Subparagraph (A) of section 6103(p)(3) of such Code (relating to records of inspection and disclosure) is amended by striking out "(l)(1) or (4)(B) or (5)" and inserting in lieu thereof "(l)(1), (4)(B), (5), or (7)".

(B) Paragraph (4) of section 6103(p) of such Code (relating to safeguards) is amended by striking out "(l)(3) or (6)" in so much of such paragraph as precedes subparagraph (A) thereof and inserting in lieu thereof "(l)(3), (6), or (7)".

(C) Clause (i) of section 6103(p)(4)(F) of such Code is amended by striking out "(l)(6)" and inserting in lieu thereof "(l)(6) or (7)".

(D) The first sentence of paragraph (2) of section 7213(a) of such Code is amended—

26 USC 7213.

(i) by striking out "or any educational institution" and inserting in lieu thereof "any educational institution, or any State food stamp agency (as defined in section 6103(l)(7)(C))", and

(ii) by striking out "subsection (d), (l)(6), or (m)(4)(B)" and inserting in lieu thereof "subsection (d), (l)(6) or (7), or (m)(4)(B)".

Effective date. 26 USC 6103 note.

(3) The amendments made by this subsection shall take effect on the date of the enactment of this Act.

42 USC 503.

(b)(1) Section 303 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(d)(1) The State agency charged with the administration of the State law—

"(A) shall disclose, upon request and on a reimbursable basis, to officers and employees of the Department of Agriculture and to officers or employees of any State food stamp agency any of the following information contained in the records of such State agency—

"(i) wage information,

"(ii) whether an individual is receiving, has received, or has made application for, unemployment compensation, and the amount of any such compensation being received (or to be received) by such individual,

"(iii) the current (or most recent) home address of such individual, and

"(iv) whether an individual has refused an offer of employment and, if so, a description of the employment so offered and the terms, conditions, and rate of pay therefor, and

"(B) shall establish such safeguards as are necessary (as determined by the Secretary of Labor in regulations) to insure that information disclosed under subparagraph (A) is used only for purposes of determining an individual's eligibility for benefits, or the amount of benefits, under the food stamp program established under the Food Stamp Act of 1977.

Notification to State agency.

"(2) Whenever the Secretary of Labor, after reasonable notice and opportunity for hearing to the State agency charged with the administration of the State law, finds that there is a failure to comply substantially with the requirements of paragraph (1), the Secretary of Labor shall notify such State agency that further payments will not be made to the State until he is satisfied that there is no longer any such failure. Until the Secretary of Labor is so satisfied, he shall make no further certification to the Secretary of the Treasury with respect to such State.

"State food stamp agency."

"(3) For purposes of this subsection, the term 'State food stamp agency' means any agency described in section 3(n)(1) of the Food

Stamp Act of 1977 which administers the food stamp program established under such Act.". 7 USC 2012.

(2) Paragraph (2) of section 304(a) of the Social Security Act is amended by striking out "subsection (b) or (c)" and inserting in lieu thereof "subsection (b), (c), or (d)". 42 USC 504.

(3) The amendments made by this subsection shall take effect on January 1, 1983. Effective date. 42 USC 503 note.

PAYMENT OF CERTAIN LEGAL FEES

SEC. 128. Section 16 of the Food Stamp Act of 1977, as amended by section 126 of this Act, is amended by adding at the end thereof a new subsection (h) as follows: 7 USC 2025.

"(h) Notwithstanding any other provision of law, counsel may be employed and counsel fees, court costs, bail, and other expenses incidental to the defense of officers and employees of the Department of Agriculture may be paid in judicial or administrative proceedings to which such officers and employees have been made parties and that arise directly out of their performance of duties under this Act; and".

COST SHARING FOR COMPUTERIZATION

SEC. 129. Section 16 of the Food Stamp Act of 1977, as amended by section 128 of this Act, is amended by adding at the end thereof a new subsection (i) as follows:

"(i) Effective October 1, 1980, the Secretary is authorized to pay to each State agency an amount equal to—

"75 per centum of the costs incurred by the State agency in the planning, design, development, or installation of automatic data processing and information retrieval systems that the Secretary determines (1) will assist in meeting the requirements of this Act, (2) meet such conditions as the Secretary prescribes, (3) are likely to provide more efficient and effective administration of the food stamp program, and (4) will be compatible with other such systems used in the administration of State plans under the Aid to Families with Dependent Children Program under title IV of the Social Security Act: *Provided,* That there shall be no such payments to the extent that a State agency is reimbursed for such costs under any other Federal program or uses such systems for purposes not connected with the food stamp program: *Provided further,* That any costs matched under this subsection shall be excluded in determining the State agency's administrative costs under any other subsection of this section.". 42 USC 601.

CONTINUATION OF CASH-OUT PILOT PROJECTS

SEC. 130. Section 17(b)(1) of the Food Stamp Act of 1977 is amended by adding at the end thereof a new sentence as follows: "Any pilot or experimental project implemented under this paragraph involving the payment of the value of allotments in the form of cash to eligible households shall be continued until October 1, 1981, if the State so requests.". 7 USC 2026.

WORKFARE JOB-SEARCH TIME PERIOD

SEC. 131. Section 17(b)(2) of the Food Stamp Act of 1977, as amended, is amended by adding after the phrase "thirty days" in the second sentence the following: "(ten days in at least one pilot project area designated by the Secretary)". *Post,* p. 368.

WORKFARE PILOT PROJECT REVISIONS

7 USC 2026.
Ante, p. 367.

SEC. 132. (a) Section 17(b)(2) of the Food Stamp Act of 1977 is amended by striking out everything after "Act," in the last sentence and inserting in lieu thereof the following: "shall issue interim reports no later than October 1, 1979, October 1, 1980, and March 30, 1981, shall issue a final report describing the results of such pilot projects based upon their operation from their commencement through the fiscal year ending September 30, 1981, and shall pay to the agencies or organizations operating such pilot projects 50 per centum of all administrative costs involved in such operation.".

Effective date.
7 USC 2026 note.

(b) The provisions of section 17(b)(2) of the Food Stamp Act of 1977 for the sharing of administrative costs, as added by subsection (a) of this section, shall be effective on the date of enactment of this Act.

STUDY OF CPI

7 USC 2026.

SEC. 133. Section 17 of the Food Stamp Act of 1977, is amended by adding at the end thereof a new subsection (e) as follows:

"(e) The Director of the Congressional Budget Office, in consultation with the Secretary, the Secretary of Commerce, and the Secretary of Labor, shall review the Consumer Price Index and the various alternative consumer price or cost-of-living indices, such as the Personal Consumption Expenditure (PCE) Deflator, to examine the limitations of each statistical alternative and the factors causing the various indices to differ with each other and to reflect inconsistencies with their own prior year indices in measuring the cost-of-living or the rate of inflation. The study shall seek to determine whether the Consumer Price Index is the most accurate indexation base for the food stamp program, or whether an alternative or combination of alternatives may be the more accurate indexation base to reflect consumer prices or changes in the costs of living. The Director of the Congressional Budget Office shall report the results of the study to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, together with such recommendations as the Director deems appropriate, by February 1, 1981.".

Results, report to congressional committees.

USE OF FEDERAL FUNDS TO INTERFERE WITH PROGRAM IMPLEMENTATION

93 Stat. 389.
7 USC 2027.
Post, p. 370.

SEC. 134. Section 18(a) of the Food Stamp Act of 1977 is amended by—

(1) inserting "(1)" immediately after the subsection designation; and

(2) adding at the end thereof a new paragraph (2) as follows:

"(2) No funds authorized to be appropriated under this Act or any other Act of Congress shall be used by any person, firm, corporation, group, or organization at any time, directly or indirectly, to interfere with or impede the implementation of any provision of this Act or any rule, regulation, or project thereunder, except that this limitation shall not apply to the provision of legal and related assistance in connection with any proceeding or action before any State or Federal agency or court. The President shall ensure that this paragraph is complied with by such order or other means as the President deems appropriate.".

ANNUAL ADJUSTMENT OF THE THRIFTY FOOD PLAN

SEC. 135. Section 3(o) of the Food Stamp Act of 1977 is amended by— 7 USC 2012.

(1) striking out "and" before "(4)";

(2) inserting "through January 1, 1980," after "(4)"; and

(3) inserting before the period at the end thereof the following: ", (5) on January 1, 1981, adjust the cost of such diet to the nearest dollar increment to reflect changes in the cost of the thrifty food plan for the twelve months ending the preceding September 30, and (6) on January 1, 1982, adjust the cost of such diet to the nearest dollar increment to reflect changes in the cost of the thrifty food plan for the twelve months ending the preceding September 30 and the subsequent three months ending December 31 as projected by the Secretary in light of the best available data; and, as of every January 1 thereafter, for the nine months ending the preceding September 30 and the subsequent three months ending December 31 as projected by the Secretary in light of the best available data".

ADJUSTMENTS OF DEDUCTIONS

SEC. 136. Section 5(e) of the Food Stamp Act of 1977 is amended by— 93 Stat. 390. 7 USC 2014. *Ante*, p. 358.

(1) striking out the comma after "1978" in the second sentence and inserting "through January 1, 1980," immediately thereafter;

(2) inserting before the period at the end of the second sentence the following. ", and, on January 1, 1981, shall be adjusted to the nearest $5 to reflect such changes for the twelve months ending the preceding September 30; and, on January 1, 1982, shall be adjusted to the nearest $5 to reflect such changes for the twelve months ending the preceding September 30 and the subsequent three months ending December 31 as projected by the Secretary in light of the best available data; and, as of every January 1 thereafter, for the nine months ending the preceding September 30 and the subsequent three months ending December 31 projected by the Secretary in light of the best available data";

(3) striking out "(commencing July 1, 1978)" in clause (2) of the fourth sentence and inserting in lieu thereof "on July 1, 1978, and July 1, 1979" in lieu thereof; and

(4) inserting before the period at the end of the fourth sentence the following: ", on January 1, 1981, adjusted to the nearest $5 increment to reflect such changes for the eighteen-month period ending the preceding September 30, and, on January 1, 1982, adjusted to the nearest $5 to reflect such changes for the twelve months ending the preceding September 30 and the subsequent three months ending December 31 as projected by the Secretary in light of the best available data, and, on every January 1 thereafter, adjusted annually to the nearest $5 increment to reflect such changes for the nine months ending the preceding September 30 and the subsequent three months ending December 31 projected by the Secretary in light of the best available data".

ADJUSTMENT OF POVERTY GUIDELINES

7 USC 2014.

SEC. 137. Section 5(c) of the Food Stamp Act of 1977 is amended by striking out everything after "forty-eight contiguous States" and inserting a period in lieu thereof.

REDUCTION IN ASSETS LIMITATIONS

SEC. 138. Section 5(g) of the Food Stamp Act of 1977 is amended by striking out "$1,750" and inserting in lieu thereof "$1,500".

RESTRICTION ON STUDENT PARTICIPATION

7 USC 2015.

SEC. 139. Section 6(e) of the Food Stamp Act of 1977 is amended by striking out everything after "(1)" and inserting in lieu thereof the following: "is physically and mentally fit and is between the ages of eighteen and sixty, (2) is enrolled at least half time in an institution of higher education, and (3)(A) is not employed a minimum of twenty hours per week or does not participate in a federally financed work study program during the regular school year or (B) is not the head of a household (or spouse of such head) containing one or more other persons who are dependents of that individual because he or she supplies more than half of their support, or (C) is not so enrolled as a result of participation in the work incentive program under title IV of the Social Security Act, as amended (42 U.S.C. 602).".

SEC. 140. Section 6(d) of the Food Stamp Act of 1977 is amended by striking out everything after "person" in the parenthesis in clause (D) of paragraph (2) and inserting in lieu thereof the following: "enrolled in an institution of higher education shall be ineligible to participate in the food stamp program unless he or she meets the requirements of subsection (e) of this section)".

TITLE II—FOOD STAMP FUNDING

APPROPRIATIONS CEILING

93 Stat. 389.
7 USC 2027.
Ante, p. 368.

SEC. 201. The first sentence of section 18(a) of the Food Stamp Act of 1977 is amended by—

(1) striking out "$6,188,600,000" and inserting "$9,491,000,000" in lieu thereof; and

(2) striking out "$6,235,900,000" and inserting "$9,739,276,000" in lieu thereof.

Approved May 26, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 96-295 accompanying H.R. 4303 (Comm. on Agriculture), No. 96-788 (Comm. on Agriculture), and No. 96-957 (Comm. of Conference).

SENATE REPORTS: No. 96-236 (Comm. on Agriculture, Nutrition, and Forestry) and No. 96-704 (Comm. of Conference).

CONGRESSIONAL RECORD:

Vol. 125 (1979): June 25, 26, H.R. 4303 considered and passed House.
July 21, 23, S. 1309 considered and passed Senate.

Vol. 126 (1980): May 7, 8, S. 1309 considered and passed House, amended.
May 14, Senate agreed to conference report.
May 15, House agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:

Vol. 16, No. 22 (1980): May 27, Presidential statement.

Public Law 96-250
96th Congress

Joint Resolution

To extend the expiration date of the Defense Production Act of 1950.

May 26, 1980
[S.J. Res. 175]

Defense Production Act of 1950, extension.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the first sentence of section 717(a) of the Defense Production Act of 1950 (50 U.S.C. App. 2166(a)) is amended by striking out "May 27, 1980" and inserting in lieu thereof "August 27, 1980".

Approved May 26, 1980.

LEGISLATIVE HISTORY:

CONGRESSIONAL RECORD, Vol. 126 (1980):
May 16, considered and passed Senate.
May 20, considered and passed House.

Public Law 96-251
96th Congress

An Act

May 26, 1980
[S. 668]

To permit the Cow Creek Band of the Umpqua Tribe of Indians to file with the United States Court of Claims any claim such band could have filed with the Indian Claims Commission under the Act of August 13, 1946 (60 Stat. 1049).

Cow Creek Band of Umpqua Indian Tribe, filing of claims.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding the time limitations of sections 2401 and 2501 of title 28, United States Code, and of section 12 of the Act entitled "An Act to create an Indian Claims Commission to provide for the powers, duties, and functions thereof, and for other purposes", approved August 13, 1946 (25 U.S.C. 70a), hereinafter in this Act referred to as the "Act of August 13, 1946", the United States Court of Claims shall have jurisdiction to consider any claim filed by the Cow Creek Band of the Umpqua Tribe of Indians within five years after the date of the enactment of this Act respecting any matter for which a claim could have been filed by such band with the Indian Claims Commission under section 2 of the Act of August 13, 1946, as amended by the Act of October 27, 1974 (25 U.S.C. 70a).

25 USC 70k.

SEC. 2. In determining the amount to be awarded in any action under this Act, the Court of Claims shall make appropriate deductions for all payments made by the United States on any claim for which an action is brought pursuant to this Act, and for all other offsets, counterclaims, and demands that would be permitted to be made by the Indian Claims Commission under the third paragraph of section 2 of the Act of August 13, 1946, as amended by the Act of October 27, 1974 (25 U.S.C. 70a), if the claim were to be determined by such Commission.

Costs of suit and attorneys' fees.

SEC. 3. The Court of Claims may award to any prevailing party, other than the United States, in any action under this Act costs of suit and reasonable attorneys' fees. The fees of such attorney or attorneys for all services rendered in prosecuting the claim in question, whether before the court or otherwise, shall, unless the amount of such fees is stipulated in the approved contract between the attorney or attorneys and the claimant, be fixed by the court at such amount as the court, in accordance with standards obtaining for prosecuting similar contingent claims in courts of law, finds to be adequate compensation for services rendered and results obtained, considering the contingent nature of the case, plus all reasonable expenses incurred in the prosecution of the claim, but the amount so fixed by the court, exclusive of reimbursements for actual expenses, shall not exceed 10 per centum of the amount recovered in such case.

Definition.

SEC. 4. (a) For purposes of this Act, the term "Cow Creek Band of the Umpqua Tribe of Indians" means the group of persons descended from persons considered members of such band for purposes of the treaty entered into between such band and the United States on September 19, 1853 (10 Stat. 1027), as ratified by the Senate on April 12, 1854, except that such group shall not include any person, or the descendent of any person, who shared in the distribution of funds

under the Act entitled "An Act to provide for the termination of Federal supervision over the property of the Klamath Tribe of Indians located in the State of Oregon and the individual members thereof, and for other purposes", approved August 13, 1954 (25 U.S.C. 564 et seq.), or under the Act entitled "An Act to provide for the termination of Federal supervision over the property of certain tribes and bands of Indians located in western Oregon and the individual members thereof, and for other purposes", approved August 13, 1954 (25 U.S.C. 691 et seq.).

(b) In any proceeding under this Act, the Council of the Cow Creek Band of the Umpqua Tribe of Indians, a nonprofit corporation incorporated in the State of Oregon, shall be considered to be the governing body of such band.

SEC. 5. The provisions of the Act of November 4, 1963 (77 Stat. 301), shall be applicable with respect to any claim filed by the Cow Creek Band of the Umpqua Tribe of Indians with the Court of Claims pursuant to this Act in the same manner and to the same extent as if such claim were pending before the Indian Claims Commission. 25 USC 70n-1.

Approved May 26, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-910 (Comm. on Interior and Insular Affairs).
SENATE REPORT No. 96-397 (Comm. on Indian Affairs).
CONGRESSIONAL RECORD:
Vol. 125 (1979): Nov. 7, considered and passed Senate.
Vol. 126 (1980): May 12, considered and passed House.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:
Vol. 16, No. 22 (1980): May 27, Presidential statement.

Public Law 96-252
96th Congress

An Act

May 28, 1980
[H.R. 2313]

To amend the Federal Trade Commission Act to extend the authorization of appropriations contained in such Act, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Federal Trade Commission Improvements Act of 1980.

SHORT TITLE

15 USC 58 note.

SECTION 1. This Act may be cited as the "Federal Trade Commission Improvements Act of 1980".

RECONSIDERATION OF ORDERS

SEC. 2. Section 5(b) of the Federal Trade Commission Act (15 U.S.C. 45(b)) is amended—

(1) in the last sentence thereof, by striking out ": *Provided, however,* That" and inserting in lieu thereof ", except that (1)", and by inserting before the period at the end thereof the following: "; and (2) in the case of an order, the Commission shall reopen any such order to consider whether such order (including any affirmative relief provision contained in such order) should be altered, modified, or set aside, in whole or in part, if the person, partnership, or corporation involved files a request with the Commission which makes a satisfactory showing that changed conditions of law or fact require such order to be altered, modified, or set aside, in whole or in part"; and

(2) by adding at the end thereof the following new sentence: "The Commission shall determine whether to alter, modify, or set aside any order of the Commission in response to a request made by a person, partnership, or corporation under paragraph (2) not later than 120 days after the date of the filing of such request.".

DISCLOSURE OF COMMERCIAL OR FINANCIAL INFORMATION; QUARTERLY FINANCIAL REPORTS

SEC. 3. (a) Section 6(f) of the Federal Trade Commission Act (15 U.S.C. 46(f)) is amended—

(1) by striking out ", except trade secrets and names of customers, as it shall deem expedient" and inserting in lieu thereof "as are"; and

(2) by inserting before the period at the end thereof the following: ": *Provided,* That the Commission shall not have any authority to make public any trade secret or any commercial or financial information which is obtained from any person and which is privileged or confidential, except that the Commission may disclose such information to officers and employees of appropriate Federal law enforcement agencies or to any officer

or employee of any State law enforcement agency upon the prior certification of an officer of any such Federal or State law enforcement agency that such information will be maintained in confidence and will be used only for official law enforcement purposes".

(b) Section 6 of the Federal Trade Commission Act (15 U.S.C. 46) is amended by adding at the end thereof the following new undesignated paragraph:

"The Commission shall establish a plan designed to substantially reduce burdens imposed upon small businesses as a result of requirements established by the Commission under clause (b) relating to the filing of quarterly financial reports. Such plan shall (1) be established after consultation with small businesses and persons who use the information contained in such quarterly financial reports; (2) provide for a reduction of the number of small businesses required to file such quarterly financial reports; and (3) make revisions in the forms used for such quarterly financial reports for the purpose of reducing the complexity of such forms. The Commission, not later than December 31, 1980, shall submit such plan to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Interstate and Foreign Commerce of the House of Representatives. Such plan shall take effect not later than October 31, 1981.". Plan for filing of quarterly financial reports; submittal to congressional committees. Effective date.

CONFIDENTIALITY OF LINE-OF-BUSINESS REPORTS

SEC. 4. Section 6 of the Federal Trade Commission Act (15 U.S.C. 46), as amended in section 3(b), is further amended by adding at the end thereof the following new undesignated paragraph:

"No officer or employee of the Commission or any Commissioner may publish or disclose information to the public, or to any Federal agency, whereby any line-of-business data furnished by a particular establishment or individual can be identified. No one other than designated sworn officers and employees of the Commission may examine the line-of-business reports from individual firms, and information provided in the line-of-business program administered by the Commission shall be used only for statistical purposes. Information for carrying out specific law enforcement responsibilities of the Commission shall be obtained under practices and procedures in effect on the date of the enactment of the Federal Trade Commission Improvements Act of 1980, or as changed by law.". *Ante*, p. 374.

COMMISSION INVESTIGATIONS OF INSURANCE BUSINESSES

SEC. 5. (a) Section 6 of the Federal Trade Commission Act, as amended in section 3(b) and section 4, is further amended by adding at the end thereof the following new undesignated paragraph:

"Nothing in this section (other than the provisions of clause (c) and clause (d)) shall apply to the business of insurance, except that the Commission shall have authority to conduct studies and prepare reports relating to the business of insurance. The Commission may exercise such authority only upon receiving a request which is agreed to by a majority of the members of the Committee on Commerce, Science, and Transportation of the Senate or the Committee on Interstate and Foreign Commerce of the House of Representatives. The authority to conduct any such study shall expire at the end of the Congress during which the request for such study was made.". Studies and reports. Expiration date.

Study and evaluation. 15 USC 46 note.

(b) The amendment made in subsection (a) shall not be construed to prohibit the Federal Trade Commission from participating with the Secretary of Health and Human Services in a comprehensive study and evaluation of the comparative effectiveness of various State policies and programs relating to the regulation of health insurance policies available for purchase by individuals who are eligible for benefits under the program of health insurance benefits established in title XVIII of the Social Security Act.

42 USC 1395.

ENFORCEMENT AUTHORITY

SEC. 6. The first undesignated paragraph of section 10 of the Federal Trade Commission Act (15 U.S.C. 50) is amended—

(1) by inserting "any" after "produce"; and

(2) by inserting "an order of a district court of the United States directing compliance with" after "obedience to".

STANDARDS AND CERTIFICATION RULEMAKINGS

SEC. 7. Section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)) is amended by inserting after "section 5(a)(1))" the following: ", except that the Commission shall not develop or promulgate any trade rule or regulation with regard to the regulation of the development and utilization of the standards and certification activities pursuant to this section".

ADVANCE NOTICE OF PROPOSED COMMISSION RULES

SEC. 8. (a) Section 18(b) of the Federal Trade Commission Act (15 U.S.C. 57a(b)) is amended—

(1) by inserting "(1)" after the subsection designation;

(2) by redesignating paragraph (1) through paragraph (4) as subparagraph (A) through subparagraph (D), respectively; and

(3) by adding at the end thereof the following new paragraph:

Notice; publication in Federal Register.

"(2)(A) Prior to the publication of any notice of proposed rulemaking pursuant to paragraph (1)(A), the Commission shall publish an advance notice of proposed rulemaking in the Federal Register. Such advance notice shall—

"(i) contain a brief description of the area of inquiry under consideration, the objectives which the Commission seeks to achieve, and possible regulatory alternatives under consideration by the Commission; and

"(ii) invite the response of interested parties with respect to such proposed rulemaking, including any suggestions or alternative methods for achieving such objectives.

Submittal to congressional committees.

"(B) The Commission shall submit such advance notice of proposed rulemaking to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Interstate and Foreign Commerce of the House of Representatives. The Commission may use such additional mechanisms as the Commission considers useful to obtain suggestions regarding the content of the area of inquiry before the publication of a general notice of proposed rulemaking under paragraph (1)(A).

Notice, submittal to congressional committees.

"(C) The Commission shall, 30 days before the publication of a notice of proposed rulemaking pursuant to paragraph (1)(A), submit such notice to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Interstate and Foreign Commerce of the House of Representatives.".

(b)(1) Section 18(c) of the Federal Trade Commission Act (15 U.S.C. 57a(c)) is amended by striking out "subsection (b)(3)" and inserting in lieu thereof "subsection (b)(1)(C)".

(2) Section 18(e)(5)(C) of the Federal Trade Commission Act (15 U.S.C. 57a(e)(5)(C)) is amended by striking out "subsection (b)(4)" and inserting in lieu thereof "subsection (b)(1)(D)".

PRESIDING OFFICER AT RULEMAKING PROCEEDINGS

SEC. 9. (a) Section 18(c) of the Federal Trade Commission Act (15 U.S.C. 57a(c)) is amended—

(1) by redesignating paragraph (1) through paragraph (4) as paragraph (2) through paragraph (5), respectively; and

(2) by inserting before paragraph (2), as so redesignated in paragraph (1), the following new paragraph:

"(1)(A) The Commission shall provide for the conduct of proceedings under this subsection by hearing officers who shall perform their functions in accordance with the requirements of this subsection.

"(B) The officer who presides over the rulemaking proceedings shall be responsible to a chief presiding officer who shall not be responsible to any other officer or employee of the Commission. The officer who presides over the rulemaking proceeding shall make a recommended decision based upon the findings and conclusions of such officer as to all relevant and material evidence, except that such recommended decision may be made by another officer if the officer who presided over the proceeding is no longer available to the Commission.

"(C) Except as required for the disposition of ex parte matters as authorized by law, no presiding officer shall consult any person or party with respect to any fact in issue unless such officer gives notice and opportunity for all parties to participate.".

(b) Section 18(c) of the Federal Trade Commission Act (15 U.S.C. 57a(c)), as amended in subsection (a), is further amended—

(1) in paragraph (2) thereof, as so redesignated in subsection (a)(1)—

(A) by striking out "paragraph (2)" and inserting in lieu thereof "paragraph (3)"; and

(B) by striking out "paragraph (2)(B)" and inserting in lieu thereof "paragraph (3)(B)";

(2) in paragraph (3) thereof, as so redesignated in subsection (a)(1), by striking out "paragraph (1)" and inserting in lieu thereof "paragraph (2)"; and

(3) in paragraph (4)(A) thereof, as so redesignated in subsection (a)(1), by striking out "paragraphs (1) and (2)" and inserting in lieu thereof "paragraphs (2) and (3)".

(c) Section 18(e)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(e)(1)(B)) is amended by striking out "subsection (c)(4)" and inserting in lieu thereof "subsection (c)(5)".

COMPENSATION FOR PARTICIPATION IN RULEMAKING PROCEEDINGS

SEC. 10. (a) Section 18(h) of the Federal Trade Commission Act (15 U.S.C. 57a(h)) is amended by redesignating paragraph (3) as paragraph (4), and by inserting after paragraph (2) the following new paragraph:

Compensation.

"(3) The amount of compensation which may be paid to any person under this subsection in connection with the participation by such person in any particular rulemaking proceeding under this section may not exceed $75,000. The aggregate amount of compensation paid under this subsection in any fiscal year to any person for all rulemaking proceedings in which such person participates during such fiscal year may not exceed $50,000.".

(b) Section 18(h)(2) of the Federal Trade Commission Act (15 U.S.C. 57a(h)(2)) is amended to read as follows:

"(2) The Commission shall reserve an amount equal to 25 percent of the amount appropriated for the payment of compensation under this subsection for any fiscal year for use in accordance with this paragraph. Such reserved amount shall be available solely for the payment of compensation to persons who either (A) would be regulated by the proposed rule involved; or (B) represent persons who would be so regulated. Any portion of such reserved amount which is not used for the payment of compensation to such persons under this paragraph shall revert to the Treasury of the United States.".

(c) Section 18(h)(4) of the Federal Trade Commission Act, as so redesignated in subsection (a), is amended by striking out "$1,000,000" and inserting in lieu thereof "$750,000".

(d) Section 18(h) of the Federal Trade Commission Act (15 U.S.C. 57a(h)), as amended in subsection (a), is further amended by adding at the end thereof the following new paragraph:

Small business outreach program, establishment.

"(5) The Commission, in connection with the administration of this subsection pursuant to rules prescribed by the Commission under paragraph (1), shall establish a small business outreach program. Such program shall—

"(A) solicit public comment from small businesses whose views otherwise would not be adequately represented, in order to ensure a fair determination in rulemaking proceedings under this section; and

"(B) encourage the participation of small businesses in the compensation program administered by the Commission under this subsection by disseminating to small businesses information which explains the procedures and requirements applicable to the receipt of compensation under such program.".

Repeal. 15 USC 57a, 57a note.

(e) The amendments made in subsection (a) and subsection (c) are repealed, effective at the end of fiscal year 1982. Effective upon such repeal, paragraph (5) of section 18(h) of the Federal Trade Commission Act, as added by subsection (d), is redesignated as paragraph (4) of section 18(h) of such Act.

COMMISSION RULEMAKINGS RELATING TO CHILDREN'S ADVERTISING; PUBLICATION OF TEXT OF PROPOSED RULES

SEC. 11. (a)(1) Section 18 of the Federal Trade Commission Act (15 U.S.C. 57a) is amended by adding at the end thereof the following new subsection:

"(i) The Commission shall not have any authority to promulgate any rule in the children's advertising proceeding pending on the date of the enactment of the Federal Trade Commission Improvements Act of 1980 or in any substantially similar proceeding on the basis of a determination by the Commission that such advertising constitutes an unfair act or practice in or affecting commerce.".

Ante, p. 374.

(2) Section 18(a)(1) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)) is amended by striking out "The" and inserting in lieu thereof "Except as provided in subsection (i), the".

(3) Section 18(b)(1)(A) of the Federal Trade Commission Act, as so redesignated in section 8(a), is amended by inserting after "particularity" the following: "the text of the rule, including any alternatives, which the Commission proposes to promulgate, and".

(b) The Federal Trade Commission shall not have any authority to use any funds which are authorized to be appropriated to carry out the Federal Trade Commission Act (15 U.S.C. 41 et seq.) for fiscal year 1980, 1981, or 1982, under section 24 of such Act, as amended by section 17 and as so redesignated in section 13, for the purpose of initiating any new rulemaking proceeding under section 18 of such Act which is intended to result in, or which may result in, the promulgation of any rule by the Commission which prohibits or otherwise regulates any commercial advertising on the basis of a determination by the Commission that such commercial advertising constitutes an unfair act or practice in or affecting commerce. 15 USC 57a note. *Post*, pp. 391, 380.

(c) The amendments made in subsection (a) shall take effect on the date of the enactment of this Act. The children's advertising proceeding pending on the date of the enactment of this Act shall not proceed further until such time as the Commission has complied with section 18(b)(1)(A) of the Federal Trade Commission Act, as amended by subsection (a)(3) and as so redesignated in section 8(a). In any such further proceeding, interested parties shall be given a reasonable opportunity to present their views in accordance with section 18(b)(1)(B) of the Federal Trade Commission Act, as so redesignated in section 8(a), section 18(b)(1)(C) of such Act, as so redesignated in section 8(a), and section 18(c) of such Act (15 U.S.C. 57a(c)). Effective date. 15 USC 57a note.

EX PARTE MEETINGS

SEC. 12. Section 18 of the Federal Trade Commission Act (15 U.S.C. 57a), as amended in section 11(a)(1), is further amended by adding at the end thereof the following new subsections:

"(j)(1) For purposes of this subsection, the term 'outside party' means any person other than (A) a Commissioner; (B) an officer or employee of the Commission; or (C) any person who has entered into a contract or any other agreement or arrangement with the Commission to provide any goods or services (including consulting services) to the Commission. "Outside party."

"(2) Not later than 60 days after the date of the enactment of the Federal Trade Commission Improvements Act of 1980, the Commission shall publish a proposed rule, and not later than 180 days after such date of enactment the Commission shall promulgate a final rule, which shall authorize the Commission or any Commissioner to meet with any outside party concerning any rulemaking proceeding of the Commission. Such rule shall provide that— Proposed rule, publication. *Ante*, p. 374. Final rule.

"(A) notice of any such meeting shall be included in any weekly calendar prepared by the Commission; and

"(B) a verbatim record or a summary of any such meeting, or of any communication relating to any such meeting, shall be kept, made available to the public, and included in the rulemaking record.

"(k) Not later than 60 days after the date of the enactment of the Federal Trade Commission Improvements Act of 1980, the Commission shall publish a proposed rule, and not later than 180 days after

such date of enactment the Commission shall promulgate a final rule, which shall prohibit any officer, employee, or agent of the Commission with any investigative responsibility or other responsibility relating to any rulemaking proceeding within any operating bureau of the Commission, from communicating or causing to be communicated to any Commissioner or to the personal staff of any Commissioner any fact which is relevant to the merits of such proceeding and which is not on the rulemaking record of such proceeding, unless such communication is made available to the public and is included in the rulemaking record. The provisions of this subsection shall not apply to any communication to the extent such communication is required for the disposition of ex parte matters as authorized by law.".

CIVIL INVESTIGATIVE DEMANDS

SEC. 13. The Federal Trade Commission Act (15 U.S.C. 41 et seq.) is amended by redesignating section 20 and section 21 as section 24 and section 25, respectively, and by inserting after section 19 the following new section:

15 USC 57c, 58.

Definitions.
15 USC 57b-1.

"SEC. 20. (a) For purposes of this section:

"(1) The terms 'civil investigative demand' and 'demand' mean any demand issued by the Commission under subsection (c)(1).

"(2) The term 'Commission investigation' means any inquiry conducted by a Commission investigator for the purpose of ascertaining whether any person is or has been engaged in any unfair or deceptive acts or practices in or affecting commerce (within the meaning of section 5(a)(1)).

15 USC 45.

"(3) The term 'Commission investigator' means any attorney or investigator employed by the Commission who is charged with the duty of enforcing or carrying into effect any provisions relating to unfair or deceptive acts or practices in or affecting commerce (within the meaning of section 5(a)(1)).

"(4) The term 'custodian' means the custodian or any deputy custodian designated under section 21(b)(2)(A).

Post, p. 385.

"(5) The term 'documentary material' includes the original or any copy of any book, record, report, memorandum, paper, communication, tabulation, chart, or other document.

"(6) The term 'person' means any natural person, partnership, corporation, association, or other legal entity, including any person acting under color or authority of State law.

"(7) The term 'violation' means any act or omission constituting an unfair or deceptive act or practice in or affecting commerce (within the meaning of section 5(a)(1)).

"(b) For the purpose of investigations performed pursuant to this section with respect to unfair or deceptive acts or practices in or affecting commerce (within the meaning of section 5(a)(1)), all actions of the Commission taken under section 6 and section 9 shall be conducted pursuant to subsection (c).

15 USC 46, 49.

"(c)(1) Whenever the Commission has reason to believe that any person may be in possession, custody, or control of any documentary material, or may have any information, relevant to unfair or deceptive acts or practices in or affecting commerce (within the meaning of section 5(a)(1)), the Commission may, before the institution of any proceedings under this Act, issue in writing, and cause to be served upon such person, a civil investigative demand requiring such person to produce such documentary material for inspection and copying or reproduction, to file written reports or answers to questions, to give

oral testimony concerning documentary material or other information, or to furnish any combination of such material, answers, or testimony.

"(2) Each civil investigative demand shall state the nature of the conduct constituting the alleged violation which is under investigation and the provision of law applicable to such violation.

"(3) Each civil investigative demand for the production of documentary material shall—

"(A) describe each class of documentary material to be produced under the demand with such definiteness and certainty as to permit such material to be fairly identified;

"(B) prescribe a return date or dates which will provide a reasonable period of time within which the material so demanded may be assembled and made available for inspection and copying or reproduction; and

"(C) identify the custodian to whom such material shall be made available.

"(4) Each civil investigative demand for written reports or answers to questions shall—

"(A) propound with definiteness and certainty the reports to be produced or the questions to be answered;

"(B) prescribe a date or dates at which time written reports or answers to questions shall be submitted; and

"(C) identify the custodian to whom such reports or answers shall be submitted.

"(5) Each civil investigative demand for the giving of oral testimony shall—

"(A) prescribe a date, time, and place at which oral testimony shall be commenced; and

"(B) identify a Commission investigator who shall conduct the investigation and the custodian to whom the transcript of such investigation shall be submitted.

"(6)(A) Any civil investigative demand may be served by any Commission investigator at any place within the territorial jurisdiction of any court of the United States.

"(B) Any such demand or any enforcement petition filed under this section may be served upon any person who is not found within the territorial jurisdiction of any court of the United States, in such manner as the Federal Rules of Civil Procedure prescribe for service in a foreign nation. 28 USC app.

"(C) To the extent that the courts of the United States have authority to assert jurisdiction over such person consistent with due process, the United States District Court for the District of Columbia shall have the same jurisdiction to take any action respecting compliance with this section by such person that such district court would have if such person were personally within the jurisdiction of such district court.

"(7) Service of any civil investigative demand or any enforcement petition filed under this section may be made upon a partnership, corporation, association, or other legal entity by—

"(A) delivering a duly executed copy of such demand or petition to any partner, executive officer, managing agent, or general agent of such partnership, corporation, association, or other legal entity, or to any agent of such partnership, corporation, association, or other legal entity authorized by appointment or by law to receive service of process on behalf of such partnership, corporation, association, or other legal entity;

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"(B) delivering a duly executed copy of such demand or petition to the principal office or place of business of the partnership, corporation, association, or other legal entity to be served; or

"(C) depositing a duly executed copy in the United States mails, by registered or certified mail, return receipt requested, duly addressed to such partnership, corporation, association, or other legal entity at its principal office or place of business.

"(8) Service of any civil investigative demand or of any enforcement petition filed under this section may be made upon any natural person by—

"(A) delivering a duly executed copy of such demand or petition to the person to be served; or

"(B) depositing a duly executed copy in the United States mails by registered or certified mail, return receipt requested, duly addressed to such person at his residence or principal office or place of business.

"(9) A verified return by the individual serving any civil investigative demand or any enforcement petition filed under this section setting forth the manner of such service shall be proof of such service. In the case of service by registered or certified mail, such return shall be accompanied by the return post office receipt of delivery of such demand or enforcement petition.

"(10) The production of documentary material in response to a civil investigative demand shall be made under a sworn certificate, in such form as the demand designates, by the person, if a natural person, to whom the demand is directed or, if not a natural person, by any person having knowledge of the facts and circumstances relating to such production, to the effect that all of the documentary material required by the demand and in the possession, custody, or control of the person to whom the demand is directed has been produced and made available to the custodian.

"(11) Each reporting requirement or question in a civil investigative demand shall be answered separately and fully in writing under oath, unless it is objected to, in which event the reasons for the objection shall be stated in lieu of an answer, and it shall be submitted under a sworn certificate, in such form as the demand designates, by the person, if a natural person, to whom the demand is directed or, if not a natural person, by any person responsible for answering each reporting requirement or question, to the effect that all information required by the demand and in the possession, custody, control, or knowledge of the person to whom the demand is directed has been submitted.

"(12)(A) Any Commission investigator before whom oral testimony is to be taken shall put the witness on oath or affirmation and shall personally, or by any individual acting under his direction and in his presence, record the testimony of the witness. The testimony shall be taken stenographically and transcribed. After the testimony is fully transcribed, the Commission investigator before whom the testimony is taken shall promptly transmit a copy of the transcript of the testimony to the custodian.

"(B) Any Commission investigator before whom oral testimony is to be taken shall exclude from the place where the testimony is to be taken all other persons except the person giving the testimony, his attorney, the officer before whom the testimony is to be taken, and any stenographer taking such testimony.

"(C) The oral testimony of any person taken pursuant to a civil investigative demand shall be taken in the judicial district of the

United States in which such person resides, is found, or transacts business, or in such other place as may be agreed upon by the Commission investigator before whom the oral testimony of such person is to be taken and such person.

"(D)(i) Any person compelled to appear under a civil investigative demand for oral testimony pursuant to this section may be accompanied, represented, and advised by an attorney. The attorney may advise such person, in confidence, either upon the request of such person or upon the initiative of the attorney, with respect to any question asked of such person.

"(ii) Such person or attorney may object on the record to any question, in whole or in part, and shall briefly state for the record the reason for the objection. An objection may properly be made, received, and entered upon the record when it is claimed that such person is entitled to refuse to answer the question on grounds of any constitutional or other legal right or privilege, including the privilege against self-incrimination. Such person shall not otherwise object to or refuse to answer any question, and shall not himself or through his attorney otherwise interrupt the oral examination. If such person refuses to answer any question, the Commission may petition the district court of the United States pursuant to this section for an order compelling such person to answer such question.

"(iii) If such person refuses to answer any question on grounds of the privilege against self-incrimination, the testimony of such person may be compelled in accordance with the provisions of section 6004 of title 18, United States Code.

"(E)(i) After the testimony of any witness is fully transcribed, the Commission investigator shall afford the witness (who may be accompanied by an attorney) a reasonable opportunity to examine the transcript. The transcript shall be read to or by the witness, unless such examination and reading are waived by the witness. Any changes in form or substance which the witness desires to make shall be entered and identified upon the transcript by the Commission investigator with a statement of the reasons given by the witness for making such changes. The transcript shall then be signed by the witness, unless the witness in writing waives the signing, is ill, cannot be found, or refuses to sign.

"(ii) If the transcript is not signed by the witness during the 30-day period following the date upon which the witness is first afforded a reasonable opportunity to examine it, the Commission investigator shall sign the transcript and state on the record the fact of the waiver, illness, absence of the witness, or the refusal to sign, together with any reasons given for the failure to sign.

"(F) The Commission investigator shall certify on the transcript that the witness was duly sworn by him and that the transcript is a true record of the testimony given by the witness, and the Commission investigator shall promptly deliver the transcript or send it by registered or certified mail to the custodian.

"(G) The Commission investigator shall furnish a copy of the transcript (upon payment of reasonable charges for the transcript) to the witness only, except that the Commission may for good cause limit such witness to inspection of the official transcript of his testimony.

"(H) Any witness appearing for the taking of oral testimony pursuant to a civil investigative demand shall be entitled to the same fees and mileage which are paid to witnesses in the district courts of the United States.

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"(d) Materials received as a result of a civil investigative demand shall be subject to the procedures established in section 21.

Post, p. 385.

Enforcement for noncompliance.

"(e) Whenever any person fails to comply with any civil investigative demand duly served upon him under this section, or whenever satisfactory copying or reproduction of material requested pursuant to the demand cannot be accomplished and such person refuses to surrender such material, the Commission, through such officers or attorneys as it may designate, may file, in the district court of the United States for any judicial district in which such person resides, is found, or transacts business, and serve upon such person, a petition for an order of such court for the enforcement of this section. All process of any court to which application may be made as provided in this subsection may be served in any judicial district.

Investigative demand, petition for modification.

"(f)(1) Not later than 20 days after the service of any civil investigative demand upon any person under subsection (c), or at any time before the return date specified in the demand, whichever period is shorter, or within such period exceeding 20 days after service or in excess of such return date as may be prescribed in writing, subsequent to service, by any Commission investigator named in the demand, such person may file with the Commission a petition for an order by the Commission modifying or setting aside the demand.

"(2) The time permitted for compliance with the demand in whole or in part, as deemed proper and ordered by the Commission, shall not run during the pendency of such petition at the Commission, except that such person shall comply with any portions of the demand not sought to be modified or set aside. Such petition shall specify each ground upon which the petitioner relies in seeking such relief, and may be based upon any failure of the demand to comply with the provisions of this section, or upon any constitutional or other legal right or privilege of such person.

"(g) At any time during which any custodian is in custody or control of any documentary material, reports, answers to questions, or transcripts of oral testimony given by any person in compliance with any civil investigative demand, such person may file, in the district court of the United States for the judicial district within which the office of such custodian is situated, and serve upon such custodian, a petition for an order of such court requiring the performance by such custodian of any duty imposed upon him by this section or section 21.

"(h) Whenever any petition is filed in any district court of the United States under this section, such court shall have jurisdiction to hear and determine the matter so presented, and to enter such order or orders as may be required to carry into effect the provisions of this section. Any final order so entered shall be subject to appeal pursuant to section 1291 of title 28, United States Code. Any disobedience of any final order entered under this section by any court shall be punished as a contempt of such court.

"(i) Notwithstanding any other provision of law, the Commission shall have no authority to issue a subpoena or make a demand for information, under authority of this Act or any other provision of law, unless such subpoena or demand for information is signed by a Commissioner acting pursuant to a Commission resolution. The Commission shall not delegate the power conferred by this section to sign subpoenas or demands for information to any other person.

"(j) The provisions of this section shall not—

Ante, p. 374.

"(1) apply to any proceeding under section 5(b); or

"(2) apply to or affect the jurisdiction, duties, or powers of any agency of the Federal Government, other than the Commission

regardless of whether such jurisdiction, duties, or powers are derived in whole or in part, by reference to this Act.".

CONFIDENTIALITY

SEC. 14. The Federal Trade Commission Act (15 U.S.C. 41 et seq.), as amended in section 13, is further amended by inserting after section 20 the following new section:

Ante, p. 380.
15 USC 57b-2.

"SEC. 21. (a) For purposes of this section:

"Material."

"(1) The term 'material' means documentary material, written reports or answers to questions, and transcripts of oral testimony.

"Federal agency."

"(2) The term 'Federal agency' has the meaning given it in section 552(e) of title 5, United States Code.

"(b)(1) With respect to any document or transcript of oral testimony received by the Commission pursuant to compulsory process in an investigation, a purpose of which is to determine whether any person may have violated any provision of the laws administered by the Commission, the procedures established in paragraph (2) through paragraph (7) shall apply.

Custodian of documentary material, designation.

"(2)(A) The Commission shall designate a duly authorized agent to serve as custodian of documentary material, or written reports or answers to questions, and transcripts of oral testimony, and such additional duly authorized agents as the Commission shall determine from time to time to be necessary to serve as deputies to the custodian.

Material, availability for inspection or reproduction.

"(B) Any person upon whom any demand for the production of documentary material has been duly served shall make such material available for inspection and copying or reproduction to the custodian designated in such demand at the principal place of business of such person (or at such other place as such custodian and such person thereafter may agree and prescribe in writing or as the court may direct pursuant to section 20(h)) on the return date specified in such demand (or on such later date as such custodian may prescribe in writing). Such person may upon written agreement between such person and the custodian substitute copies for originals of all or any part of such material.

Ante, p. 380.

Responsibility for use.

"(3)(A) The custodian to whom any documentary material, written reports or answers to questions, and transcripts of oral testimony are delivered shall take physical possession of such material, reports or answers, and transcripts, and shall be responsible for the use made of such material, reports or answers, and transcripts, and for the return of material, pursuant to the requirements of this section.

Copies.

"(B) The custodian may prepare such copies of the documentary material, written reports or answers to questions, and transcripts of oral testimony as may be required for official use by any duly authorized officer or employee of the Commission under regulations which shall be promulgated by the Commission. Notwithstanding subparagraph (C), such material and transcripts may be used by any such officer or employee in connection with the taking of oral testimony under this section.

Examination.

"(C) Except as otherwise provided in this section, while in the possession of the custodian, no documentary material, reports or answers to questions, and transcripts of oral testimony shall be available for examination by any individual other than a duly authorized officer or employee of the Commission without the consent of the person who produced the material or transcripts. Nothing

in this section is intended to prevent disclosure to either House of the Congress or to any committee or subcommittee of the Congress, except that the Commission immediately shall notify the owner or provider of any such information of a request for information designated as confidential by the owner or provider.

"(D) While in the possession of the custodian and under such reasonable terms and conditions as the Commission shall prescribe—

"(i) documentary material or written reports shall be available for examination by the person who produced the material, or by any duly authorized representative of such person; and

"(ii) answers to questions in writing and transcripts of oral testimony shall be available for examination by the person who produced the testimony or by his attorney.

"(4) Whenever the Commission has instituted a proceeding against a person, partnership, or corporation, the custodian may deliver to any officer or employee of the Commission documentary material, written reports or answers to questions, and transcripts of oral testimony for official use in connection with such proceeding. Upon the completion of the proceeding, the officer or employee shall return to the custodian any such material so delivered which has not been received into the record of the proceeding.

"(5) If any documentary material, written reports or answers to questions, and transcripts of oral testimony have been produced in the course of any investigation by any person pursuant to compulsory process and—

"(A) any proceeding arising out of the investigation has been completed; or

"(B) no proceeding in which the material may be used has been commenced within a reasonable time after completion of the examination and analysis of all such material and other information assembled in the course of the investigation;

then the custodian shall, upon written request of the person who produced the material, return to the person any such material which has not been received into the record of any such proceeding (other than copies of such material made by the custodian pursuant to paragraph (3)(B)).

"(6) The custodian of any documentary material, written reports or answers to questions, and transcripts of oral testimony may deliver to any officers or employees of appropriate Federal law enforcement agencies, in response to a written request, copies of such material for use in connection with an investigation or proceeding under the jurisdiction of any such agency. Such materials shall not be made available to any such agency until the custodian receives certification of any officer of such agency that such information will be maintained in confidence and will be used only for official law enforcement purposes. Such documentary material, written reports or answers to questions, and transcripts of oral testimony may be used by any officer or employee of such agency only in such manner and subject to such conditions as apply to the Commission under this section. The custodian may make such materials available to any State law enforcement agency upon the prior certification of any officer of such agency that such information will be maintained in confidence and will be used only for official law enforcement purposes.

"(7) In the event of the death, disability, or separation from service in the Commission of the custodian of any documentary material, written reports or answers to questions, and transcripts of oral testimony produced under any demand issued under this Act, or the

official relief of the custodian from responsibility for the custody and control of such material, the Commission promptly shall—

"(A) designate under paragraph (2)(A) another duly authorized agent to serve as custodian of such material; and

"(B) transmit in writing to the person who produced the material or testimony notice as to the identity and address of the successor so designated.

Any successor designated under paragraph (2)(A) as a result of the requirements of this paragraph shall have (with regard to the material involved) all duties and responsibilities imposed by this section upon his predecessor in office with regard to such material, except that he shall not be held responsible for any default or dereliction which occurred before his designation.

"(c)(1) All information reported to or otherwise obtained by the Commission which is not subject to the requirements of subsection (b) shall be considered confidential when so marked by the person supplying the information and shall not be disclosed, except in accordance with the procedures established in paragraph (2) and paragraph (3).

"(2) If the Commission determines that a document marked confidential by the person supplying it may be disclosed because it is not a trade secret or commercial or financial information which is obtained from any person and which is privileged or confidential, within the meaning of section 6(f), then the Commission shall notify such person in writing that the Commission intends to disclose the document at a date not less than 10 days after the date of receipt of notification.

Ante, p. 374.

"(3) Any person receiving such notification may, if he believes disclosure of the document would cause disclosure of a trade secret, or commercial or financial information which is obtained from any person and which is privileged or confidential, within the meaning of section 6(f), before the date set for release of the document, bring an action in the district court of the United States for the district within which the documents are located or in the United States District Court for the District of Columbia to restrain disclosure of the document. Any person receiving such notification may file with the appropriate district court or court of appeals of the United States, as appropriate, an application for a stay of disclosure. The documents shall not be disclosed until the court has ruled on the application for a stay.

File for stay of disclosure.

"(d)(1) The provisions of subsection (c) shall not be construed to prohibit—

"(A) the disclosure of information to either House of the Congress or to any committee or subcommittee of the Congress, except that the Commission immediately shall notify the owner or provider of any such information of a request for information designated as confidential by the owner or provider;

"(B) the disclosure of the results of any investigation or study carried out or prepared by the Commission, except that no information shall be identified nor shall information be disclosed in such a manner as to disclose a trade secret of any person supplying the trade secret, or to disclose any commercial or financial information which is obtained from any person and which is privileged or confidential;

"(C) the disclosure of relevant and material information in Commission adjudicative proceedings or in judicial proceedings to which the Commission is a party; or

"(D) the disclosure to a Federal agency of disaggregated information obtained in accordance with section 3512 of title 44, United States Code, except that the recipient agency shall use such disaggregated information for economic, statistical, or policymaking purposes only, and shall not disclose such information in an individually identifiable form.

Information disclosure in adjudicative or judicial proceedings.

"(2) Any disclosure of relevant and material information in Commission adjudicative proceedings or in judicial proceedings to which the Commission is a party shall be governed by the rules of the Commission for adjudicative proceedings or by court rules or orders, except that the rules of the Commission shall not be amended in a manner inconsistent with the purposes of this section.

"(e) Nothing in this section shall supersede any statutory provision which expressly prohibits or limits particular disclosures by the Commission, or which authorizes disclosures to any other Federal agency.

Exemption from disclosure.

"(f) Any material which is received by the Commission in any investigation, a purpose of which is to determine whether any person may have violated any provision of the laws administered by the Commission, and which is provided pursuant to any compulsory process under this Act or which is provided voluntarily in place of such compulsory process shall be exempt from disclosure under section 552 of title 5, United States Code.".

REGULATORY ANALYSES; JUDICIAL REVIEW; REGULATORY AGENDAS

SEC. 15. The Federal Trade Commission Act (15 U.S.C. 41 et seq.), as amended in section 13 and section 14, is further amended by inserting after section 21 the following new section:

15 USC 57b-3.

"SEC. 22. (a) For purposes of this section:

"Rule."
15 USC 46, 57a.

"(1) The term 'rule' means any rule promulgated by the Commission under section 6 or section 18, except that such term does not include interpretive rules, rules involving Commission management or personnel, general statements of policy, or rules relating to Commission organization, procedure, or practice. Such term does not include any amendment to a rule unless the Commission—

"(A) estimates that such amendment will have an annual effect on the national economy of $100,000,000 or more;

"(B) estimates that such amendment will cause a substantial change in the cost or price of goods or services which are used extensively by particular industries, which are supplied extensively in particular geographic regions, or which are acquired in significant quantities by the Federal Government, or by State or local governments; or

"(C) otherwise determines that such amendment will have a significant impact upon persons subject to regulation under such amendment and upon consumers.

"Rulemaking."

"(2) The term 'rulemaking' means any Commission process for formulating or amending a rule.

Preliminary regulatory analysis, contents.

"(b)(1) In any case in which the Commission publishes notice of a proposed rulemaking, the Commission shall issue a preliminary regulatory analysis relating to the proposed rule involved. Each preliminary regulatory analysis shall contain—

"(A) a concise statement of the need for, and the objectives of, the proposed rule;

"(B) a description of any reasonable alternatives to the proposed rule which may accomplish the stated objective of the rule in a manner consistent with applicable law; and

"(C) for the proposed rule, and for each of the alternatives described in the analysis, a preliminary analysis of the projected benefits and any adverse economic effects and any other effects, and of the effectiveness of the proposed rule and each alternative in meeting the stated objectives of the proposed rule.

Final regulatory analysis, contents.

"(2) In any case in which the Commission promulgates a final rule, the Commission shall issue a final regulatory analysis relating to the final rule. Each final regulatory analysis shall contain—

"(A) a concise statement of the need for, and the objectives of, the final rule;

"(B) a description of any alternatives to the final rule which were considered by the Commission;

"(C) an analysis of the projected benefits and any adverse economic effects and any other effects of the final rule;

"(D) an explanation of the reasons for the determination of the Commission that the final rule will attain its objectives in a manner consistent with applicable law and the reasons the particular alternative was chosen; and

"(E) a summary of any significant issues raised by the comments submitted during the public comment period in response to the preliminary regulatory analysis, and a summary of the assessment by the Commission of such issues.

"(3)(A) In order to avoid duplication or waste, the Commission is authorized to—

"(i) consider a series of closely related rules as one rule for purposes of this subsection; and

"(ii) whenever appropriate, incorporate any data or analysis contained in a regulatory analysis issued under this subsection in the statement of basis and purpose to accompany any rule promulgated under section 18(a)(1)(B), and incorporate by reference in any preliminary or final regulatory analysis information contained in a notice of proposed rulemaking or a statement of basis and purpose.

Ante, p. 376.

Preliminary and final regulatory analyses, availability. Fee.

"(B) The Commission shall include, in each notice of proposed rulemaking and in each publication of a final rule, a statement of the manner in which the public may obtain copies of the preliminary and final regulatory analyses. The Commission may charge a reasonable fee for the copying and mailing of regulatory analyses. The regulatory analyses shall be furnished without charge or at a reduced charge if the Commission determines that waiver or reduction of the fee is in the public interest because furnishing the information primarily benefits the general public.

Publication in Federal Register.

"(4) The Commission is authorized to delay the completion of any of the requirements established in this subsection by publishing in the Federal Register, not later than the date of publication of the final rule involved, a finding that the final rule is being promulgated in response to an emergency which makes timely compliance with the provisions of this subsection impracticable. Such publication shall include a statement of the reasons for such finding.

"(5) The requirements of this subsection shall not be construed to alter in any manner the substantive standards applicable to any action by the Commission, or the procedural standards otherwise applicable to such action.

Judicial review.

"(c)(1) The contents and adequacy of any regulatory analysis prepared or issued by the Commission under this section, including the adequacy of any procedure involved in such preparation or issuance, shall not be subject to any judicial review in any court, except that a court, upon review of a rule pursuant to section 18(e), may set aside such rule if the Commission has failed entirely to prepare a regulatory analysis.

18 USC 57a.

"(2) Except as specified in paragraph (1), no Commission action may be invalidated, remanded, or otherwise affected by any court on account of any failure to comply with the requirements of this section.

"(3) The provisions of this subsection do not alter the substantive or procedural standards otherwise applicable to judicial review of any action by the Commission.

Regulatory agenda.

"(d)(1) The Commission shall publish at least semiannually a regulatory agenda. Each regulatory agenda shall contain a list of rules which the Commission intends to propose or promulgate during the 12-month period following the publication of the agenda. On the first Monday in October of each year, the Commission shall publish in the Federal Register a schedule showing the dates during the current fiscal year on which the semiannual regulatory agenda of the Commission will be published.

Publication dates in Federal Register.

"(2) For each rule listed in a regulatory agenda, the Commission shall—

"(A) describe the rule;

"(B) state the objectives of and the legal basis for the rule; and

"(C) specify any dates established or anticipated by the Commission for taking action, including dates for advance notice of proposed rulemaking, notices of proposed rulemaking, and final action by the Commission.

"(3) Each regulatory agenda shall state the name, office address, and office telephone number of the Commission officer or employee responsible for responding to any inquiry relating to each rule listed.

"(4) The Commission shall not propose or promulgate a rule which was not listed on a regulatory agenda unless the Commission publishes with the rule an explanation of the reasons the rule was omitted from such agenda.".

GOOD FAITH RELIANCE UPON ACTIONS OF BOARD OF GOVERNORS OF FEDERAL RESERVE SYSTEM

SEC. 16. The Federal Trade Commission Act (15 U.S.C. 41 et seq.), as amended in section 13, section 14, and section 15, is further amended by inserting after section 22 the following new section:

"Board of Governors." 15 USC 57b-4.

"SEC. 23. (a) For purposes of this section, the term 'Board of Governors' means the Board of Governors of the Federal Reserve System.

"(b) Notwithstanding any other provision of law, if—

"(1) any person, partnership, or corporation engages in any conduct or practice which allegedly constitutes a violation of any Federal law with respect to which the Board of Governors of the Federal Reserve System has rulemaking authority; and

"(2) such person, partnership, or corporation engaged in such conduct or practice in good faith reliance upon, and in conformity with, any rule, regulation, statement of interpretation, or statement of approval prescribed or issued by the Board of Governors under such Federal law;

then such good faith reliance shall constitute a defense in any administrative or judicial proceeding commenced against such person, partnership, or corporation by the Commission under this Act or in any administrative or judicial proceeding commenced against such person, partnership, or corporation by the Attorney General of the United States, upon request made by the Commission, under any provision of law.

"(c) The provisions of subsection (b) shall apply regardless of whether any rule, regulation, statement of interpretation, or statement of approval prescribed or issued by the Board of Governors is amended, rescinded, or held to be invalid by judicial authority or any other authority after a person, partnership, or corporation has engaged in any conduct or practice in good faith reliance upon, and in conformity with, such rule, regulation, statement of interpretation, or statement of approval.

"(d) If, in any case in which—

"(1) the Board of Governors has rulemaking authority with respect to any Federal law; and

"(2) the Commission is authorized to enforce the requirements of such Federal law;

any person, partnership, or corporation submits a request to the Board of Governors for the issuance of any statement of interpretation or statement of approval relating to any conduct or practice of such person, partnership, or corporation which may be subject to the requirements of such Federal law, then the Board of Governors shall dispose of such request as soon as practicable after the receipt of such request.".

AUTHORIZATION OF APPROPRIATIONS

SEC. 17. Section 24 of the Federal Trade Commission Act, as so redesignated in section 13, is amended— 15 USC 57c. *Ante*, p. 380.

(1) by striking out "and" after "1976;"; and

(2) by striking out "1977. For fiscal years" and all that follows through "law." and inserting in lieu thereof "1977; not to exceed $70,000,000 for the fiscal year ending September 30, 1980; not to exceed $75,000,000 for the fiscal year ending September 30, 1981; and not to exceed $80,000,000 for the fiscal year ending September 30, 1982.".

RESTRICTION OF COMMISSION AUTHORITY UNDER LANHAM TRADEMARK ACT

SEC. 18. The Federal Trade Commission shall not have any authority to use any funds which are authorized to be appropriated to carry out the Federal Trade Commission Act (15 U.S.C. 41 et seq.) for fiscal year 1980, 1981, or 1982, under section 24 of such Act, as amended by section 17 and as so redesignated in section 13, for the purpose of taking any action under section 14 of the Act entitled "An Act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes" (15 U.S.C. 1064), commonly referred to as the Lanham Trademark Act, with respect to the cancellation of the registration of any mark on the ground that such mark has become the common descriptive name of an article or substance. 15 USC 57c note.

RESTRICTION OF COMMISSION REGULATION OF FUNERAL INDUSTRY

SEC. 19. (a) For purposes of this section: 15 USC 57a note.

"Commission."

(1) The term "Commission" means the Federal Trade Commission.

"Funeral trade regulation rule."

(2) The term "funeral trade regulation rule" means the proposed trade regulation rule which was published in the Federal Register of August 29, 1975, beginning at page 39901, and which relates to the regulation of funeral industry practices.

(b) Except as provided in subsection (c), the Federal Trade Commission shall not have any authority to use any funds which are authorized to be appropriated to carry out the Federal Trade Commission Act (15 U.S.C. 41 et seq.) for fiscal year 1980, 1981, or 1982, under section 24 of such Act, as amended by section 17 and as so redesignated in section 13, to issue—

(1) the funeral trade regulation rule in final form; or

(2) any other trade regulation rule, in proposed or final form, which sets forth rules substantially similar to the rules set forth in the funeral trade regulation rule.

Funds, use.

(c)(1) The Commission shall have authority to use the funds specified in subsection (b) to issue the funeral trade regulation rule in final form only to the extent that the funeral trade regulation rule (in its final form)—

(A) requires persons, partnerships, and corporations furnishing goods and services relating to funerals to disclose the fees or prices charged for such goods and services in a manner prescribed by the Commission; and

(B) prohibits or prevents such persons, partnerships, and corporations from—

(i) engaging in any misrepresentation;

(ii) engaging in any boycott against, or making any threat against, any other person, partnership, or corporation furnishing goods and services relating to funerals;

(iii) conditioning the furnishing of any such goods or services to a consumer upon the purchase by such consumer of other such goods or services; or

(iv) furnishing any such goods or services to a consumer for a fee without obtaining the prior approval of such consumer.

(2)(A) The Commission, before issuing the funeral trade regulation rule in final form—

Publication in Federal Register.

(i) shall publish in the Federal Register for public comment a revised version of the funeral trade regulation rule which contains the provisions specified in subparagraph (A) and subparagraph (B) of paragraph (1);

(ii) shall allow interested persons to submit written data, views, and arguments relating to such revised version of the funeral trade regulation rule, and make all such submissions publicly available; and

(iii) may permit interested persons, or, as appropriate, a single representative of each group of such persons having the same or similar interests with respect to such revised version of the funeral trade regulation rule, to present their position orally.

(B) The requirements established in subparagraph (A) are in addition to, and not in lieu of, any other requirements established in the Federal Trade Commission Act (15 U.S.C. 41 et seq.), or in any other provision of law, and applicable to the promulgation of trade regulation rules by the Commission. The requirements established in subparagraph (A) shall not be construed to vacate or otherwise affect any proceedings conducted by the Commission before the date of the

enactment of this Act with respect to the funeral trade regulation rule.

(d) If, upon application to the Commission by an appropriate State agency, the Commission determines (pursuant to rules prescribed by the Commission) that—

(1) there is in effect a State requirement which applies to any transaction to which this section applies; and

(2) such State requirement affords an overall level of protection to consumers which is as great as, or greater than, the protection afforded by this section;

then only such State requirement shall be applicable to the extent specified in such determination for so long as the State administers and enforces effectively any such State requirement.

RESTRICTION OF COMMISSION AUTHORITY RELATING TO AGRICULTURAL COOPERATIVES

SEC. 20. (a) The Federal Trade Commission shall not have any authority to use any funds which are authorized to be appropriated to carry out the Federal Trade Commission Act (15 U.S.C. 41 et seq.) for fiscal year 1980, 1981, or 1982, under section 24 of such Act, as amended by section 17 and as so redesignated in section 13, for the purpose of conducting any study, investigation, or prosecution of any agricultural cooperative for any conduct which, because of the provisions of the Act entitled "An Act to authorize association of producers of agricultural products", approved February 18, 1922 (7 U.S.C. 291 et seq.), commonly known as the Capper-Volstead Act, is not a violation of any Federal antitrust Act or the Federal Trade Commission Act (15 U.S.C. 41 et seq.). 15 USC 57c note.

(b) The Federal Trade Commission shall not have any authority to use any funds which are authorized to be appropriated to carry out the Federal Trade Commission Act (15 U.S.C. 41 et seq.) for fiscal year 1980, 1981, or 1982, under section 24 of such Act, as amended by section 17 and as so redesignated in section 13, for the purpose of conducting any study or investigation of any agricultural marketing orders. Study or investigation, prohibition.

CONGRESSIONAL REVIEW OF RULES

SEC. 21. (a)(1) The Federal Trade Commission, after promulgating a final rule, shall submit such final rule to the Congress for review in accordance with this section. Such final rule shall be delivered to each House of the Congress on the same date and to each House of the Congress while it is in session. Such final rule shall be referred to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Interstate and Foreign Commerce of the House, respectively. 15 USC 57a-1.

(2) Any such final rule shall become effective in accordance with its terms unless, before the end of the period of 90 calendar days of continuous session after the date such final rule is submitted to the Congress, both Houses of the Congress adopt a concurrent resolution disapproving such final rule. Effective date.

(b)(1) The provisions of this subsection are enacted by the Congress—

(A) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they are deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in

that House in the case of concurrent resolutions which are subject to this section, and such provisions supersede other rules only to the extent that they are inconsistent with such other rules; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

(2)(A) Any concurrent resolution disapproving a final rule of the Commission shall, upon introduction or receipt from the other House of the Congress, be referred immediately by the presiding officer of such House to the Committee on Commerce, Science, and Transportation of the Senate or to the Committee on Interstate and Foreign Commerce of the House, as the case may be.

(B) If a committee to which a concurrent resolution is referred does not report such concurrent resolution before the end of the period of 75 calendar days of continuous session of the Congress after the referral of such resolution to the Committee on Commerce, Science, and Transportation of the Senate or to the Committee on Interstate and Foreign Commerce of the House, as the case may be, under subsection (a)(1), it shall be in order to move to discharge any such committee from further consideration of such concurrent resolution.

(C)(i) A motion to discharge in the Senate may be made only by a Member favoring the concurrent resolution, shall be privileged (except that it may not be made after the committee has reported a concurrent resolution with respect to the same final rule of the Commission), and debate on such motion shall be limited to not more than 1 hour, to be divided equally between those favoring and those opposing the motion. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to. If the motion to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other concurrent resolution with respect to the same final rule of the Commission.

(ii) A motion to discharge in the House may be made by presentation in writing to the Clerk. The motion may be called up only if the motion has been signed by one-fifth of the Members of the House. The motion is highly privileged (except that it may not be made after the committee has reported a concurrent resolution of disapproval with respect to the same rule). Debate on such motion shall be limited to not more than 1 hour, the time to be divided equally between those favoring and those opposing the motion. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(3)(A) When a committee has reported, or has been discharged from further consideration of, a concurrent resolution, it shall be at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the concurrent resolution. The motion shall be privileged in the Senate and highly privileged in the House of Representatives, and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(B) Debate on the concurrent resolution shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing such concurrent resolution. A motion further to

limit debate shall not be debatable. An amendment to, or motion to recommit, the concurrent resolution shall not be in order, and it shall not be in order to move to reconsider the vote by which such concurrent resolution was agreed to or disagreed to.

(4) Appeals from the decision of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a concurrent resolution shall be decided without debate.

(5) Notwithstanding any other provision of this subsection, if a House has approved a concurrent resolution with respect to any final rule of the Commission, then it shall not be in order to consider in such House any other concurrent resolution with respect to the same final rule.

(c)(1) If a final rule of the Commission is disapproved by the Congress under subsection (a)(2), then the Commission may promulgate a final rule which relates to the same acts or practices as the final rule disapproved by the Congress in accordance with this subsection. Such final rule—

(A) shall be based upon—

(i) the rulemaking record of the final rule disapproved by the Congress; or

(ii) such rulemaking record and the record established in supplemental rulemaking proceedings conducted by the Commission in accordance with section 553 of title 5, United States Code, in any case in which the Commission determines that it is necessary to supplement the existing rulemaking record; and

(B) may contain such changes as the Commission considers necessary or appropriate.

(2) The Commission, after promulgating a final rule under this subsection, shall submit the final rule to the Congress in accordance with subsection (a)(1).

(d) Congressional inaction on, or rejection of, a concurrent resolution of disapproval under this section shall not be construed as an expression of approval of the final rule involved, and shall not be construed to create any presumption of validity with respect to such final rule.

(e)(1) The Comptroller General shall prepare a report which examines the review of Commission rules under this section. Such report shall— Report, contents.

(A) list the final rules submitted to the Congress by the Commission during the period in which this section is in effect;

(B) list the final rules disapproved by the Congress under subsection (a)(2);

(C) specify the number of instances in which the Commission promulgates a final rule in accordance with subsection (c); and

(D) include an analysis of any impact which the provisions of this section have had upon the decisionmaking and rulemaking processes of the Commission.

(2) The Comptroller General shall submit the report required in paragraph (1) to the Congress before the end of fiscal year 1982. Report to Congress.

(f)(1) Any interested party may institute such actions in the appropriate district court of the United States, including actions for declaratory judgment, as may be appropriate to construe the constitutionality of any provision of this section. The district court immediately shall certify all questions of the constitutionality of this section Actions in a U.S. district court.

to the United States court of appeals for the circuit involved, which shall hear the matter sitting en banc.

Appeal to Supreme Court of the United States.

(2) Notwithstanding any other provision of law, any decision on a matter certified under paragraph (1) shall be reviewable by appeal directly to the Supreme Court of the United States. Such appeal shall be brought not later than 20 days after the decision of the court of appeals.

(3) It shall be the duty of the court of appeals and of the Supreme Court of the United States to advance on the docket and to expedite to the greatest possible extent the disposition of any matter certified under paragraph (1).

(g)(1) For purposes of this section—

(A) continuity of session is broken only by an adjournment sine die; and

(B) days on which either House is not in session because of an adjournment of more than 5 days to a day certain are excluded in the computation of the periods specified in subsection (a)(2) and subsection (b).

(2) If an adjournment sine die of the Congress occurs after the Commission has submitted a final rule under subsection (a)(1), but such adjournment occurs—

(A) before the end of the period specified in subsection (a)(2); and

(B) before any action necessary to disapprove the final rule is completed under subsection (a)(2);

Resubmittal to Congress.

then the Commission shall be required to resubmit the final rule involved at the beginning of the next regular session of the Congress. The period specified in subsection (a)(2) shall begin on the date of such resubmission.

(h) For purposes of this section:

Definitions.

(1) The term "Commission" means the Federal Trade Commission.

(2) The term "concurrent resolution" means a concurrent resolution the matter after the resolving clause of which is as follows: "That the Congress disapproves the final rule promulgated by the Federal Trade Commission dealing with the matter of ——, which final rule was submitted to the Congress on ——.". (The blank spaces shall be filled appropriately.)

(3) The term "rule" means any rule promulgated by the Commission pursuant to the Federal Trade Commission Act (15 U.S.C. 41 et seq.), other than any rule promulgated under section 18(a)(1)(A) of such Act (15 U.S.C. 57a(a)(1)(A)).

Effective date. 15 USC 57a-1 note.

(i) The provisions of this section shall take effect on the date of the enactment of this Act and shall cease to have any force or effect after September 30, 1982.

OVERSIGHT HEARINGS

15 USC 57a note.

SEC. 22. The Consumer Subcommittee of the Committee on Commerce, Science, and Transportation of the Senate shall conduct an oversight hearing with respect to the Federal Trade Commission at least once during the first 6 calendar months, and at least once during the last 6 calendar months, of each of the fiscal years 1980, 1981, and 1982.

EFFECTIVE DATE

SEC. 23. The provisions of this Act, and the amendments made by this Act, shall take effect on the date of the enactment of this Act. 15 USC 45 note.

Approved May 28, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 96-181 (Comm. on Interstate and Foreign Commerce) and No. 96-917 (Comm. of Conference).
SENATE REPORTS: No. 96-184 accompanying S. 1020 and No. 96-500 accompanying S. 1991 (both from Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD:
Vol. 125 (1979): Nov. 14, 27, considered and passed House.
Vol. 126 (1980): Feb. 7, H.R. 2313 considered and passed Senate, amended, in lieu of S. 1020 and S. 1991.
May 20, House agreed to conference report.
May 21, Senate agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:
Vol. 16, No. 22 (1980): May 28, Presidential statement.

Public Law 96-253
96th Congress

An Act

May 29, 1980
[S. 2648]

To authorize appropriations for the Federal Election Commission for fiscal year 1981.

Federal Election Campaign Act of 1971, amendment.

2 USC 438.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the second sentence of section 314 of the Federal Election Campaign Act of 1971 (2 U.S.C. 439c) is amended by striking out "and" after "1977," and by inserting after "1978" the following: ", and $9,400,000 (of which not more than $400,000 are authorized to be appropriated for the national clearinghouse function described in section 311(a)(10)) for the fiscal year ending September 30, 1981".

Approved May 29, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-929 accompanying H.R. 7281 (Comm. on House Administration).

SENATE REPORT No. 96-679 (Comm. on Rules and Administration).

CONGRESSIONAL RECORD, Vol. 126 (1980):

May 8, considered and passed Senate.

May 12, H.R. 7281 considered and passed House; passage vacated and S. 26 amended, passed in lieu.

May 16, Senate concurred in House amendments.

Public Law 96-254
96th Congress

An Act

May 30, 1980
[S. 2253]

To amend the Railroad Revitalization and Regulatory Reform Act of 1976 to authorize additional appropriations for the Northeast Corridor improvement project and to require the Secretary of Transportation to begin development of energy efficient rail passenger corridors, to provide for the protection of the employees of the Rock Island Railroad, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Railroad Revitalization and Regulatory Reform Act of 1976, amendment.

TITLE I—ROCK ISLAND TRANSITION AND EMPLOYEE ASSISTANCE

SHORT TITLE

Rock Island Railroad Transition and Employee Assistance Act.
45 USC 1001 note.

SEC. 101. This title may be cited as the "Rock Island Railroad Transition and Employee Assistance Act".

CONGRESSIONAL FINDINGS

45 USC 1001.

SEC. 102. Congress hereby finds that—

(1) uninterrupted continuation of services over Rock Island lines is dependent on adequate employee protection provisions covering Rock Island Railroad employees who are not hired by other railroads;

(2) for those Rock Island Railroad employees not hired by other rail carriers, there is no other practicable means of obtaining funds to meet the necessary costs of such employee protection that are assumed by the Rock Island Railroad;

(3) a cessation of necessary operations of the Rock Island Railroad would have serious repercussions on the economies of the States in which such railroad principally operates; and

(4) premature cessation of services over lines which are the subject of pending purchase application would result in harm to the shipping public and could imperil continuation of vital commuter service.

DEFINITIONS

45 USC 1002.

SEC. 103. As used in this title, the term—

(1) "bankruptcy court" means the court having jurisdiction over the reorganization of the Rock Island Railroad;

(2) "Board" means the Railroad Retirement Board;

(3) "Commission" means the Interstate Commerce Commission;

(4) "employee" includes any employee of the Rock Island Railroad as of August 1, 1979, but does not include any individual serving as president, vice-president, secretary, treasurer, comptroller, counsel, member of the board of directors, or any other person performing such functions;

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(5) the term "Rock Island Railroad" means the Chicago, Rock Island and Pacific Railroad Company; and

(6) the term "Secretary" means the Secretary of Transportation.

SERVICE CONTINUATION

45 USC 1003.
93 Stat. 1023.

SEC. 104. (a) Notwithstanding the provisions of section 11125 of title 49, United States Code, or Public Law 96-131, the Commission shall order directed service for a period of not to exceed 90 days over any line of the Rock Island Railroad if the Secretary finds and certifies to the Commission that—

(1) a lack of rail service exists which cannot be resolved by a grant of interim operating authority over such line and grains or foods are ready to be shipped to market; or

(2) a lack of rail service exists which cannot be resolved by a grant of interim operating authority over such line and a rail carrier, shipper, State, or other interested party has expressed in writing to the Secretary an interest in purchasing, leasing, or rehabilitating the particular rail line or facility for purposes of providing rail services, and there is a reasonable expectation that such transaction will be consummated.

Directed service.

(b)(1) Not more than $15,000,000 of the funds available for expenditure by the Secretary out of the Railroad Rehabilitation and Improvement Fund established under title V of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 821 et seq.) may be made available by the Secretary to the Commission for purposes of providing directed service under this section and section 18(b) of the Milwaukee Railroad Restructuring Act.

93 Stat. 746.
Post, p. 405.

(2) Funds may be made available for directed service under this section without regard to the findings of the Secretary required under title V of the Railroad Revitalization and Regulatory Reform Act of 1976, and section 516 of such Act (45 U.S.C. 836) shall not apply to any directed service provided with such funds.

45 USC 821.

Trackage rights, compensation terms.

(c) The terms of compensation for all trackage rights, joint facilities, and similar arrangements between other rail carriers and the trustee of the Rock Island Railroad which are in effect on or after March 15, 1980, on portions of the lines of the Rock Island Railroad involved in temporary emergency operations shall be continued in effect during the duration of the temporary emergency operating authority with the carrier providing temporary emergency service substituting for the trustee, except where the Rock Island Railroad has been given more favorable treatment by virtue of its bankruptcy. Such continuation shall not alter or affect the ultimate rights of other rail carriers under trackage rights, joint facilities, or similar arrangements nor prejudice the ultimate determination of any controversy or proceeding concerning rights of the parties with regard to assignment by the trustee of rights in or to the facilities or under the arrangements.

RAILROAD HIRING

45 USC 1004.

SEC. 105. (a) Each person who is an employee of the Rock Island Railroad on August 1, 1979, and who, prior to January 1, 1981, is separated or furloughed (other than for cause) from his employment with such railroad, or from his employment with another rail carrier providing temporary service over lines of the Rock Island Railroad, as a result of a reduction of service by such railroad or such temporary

service carrier shall, unless found to be less qualified than other applicants, have the first right of hire by any other rail carrier that is subject to regulation by the Commission for any vacancy that is not covered by (1) an affirmative action plan, or a hiring plan designed to eliminate discrimination, that is required by Federal or State statute, regulations, or Executive order, or by the order of a Federal or State court or agency, or (2) a permissible voluntary affirmative action plan. For purposes of this section, a rail carrier shall not be considered to be hiring new employees when it recalls any of its own furloughed employees.

(b) The rights afforded to Rock Island Railroad employees by this section shall be coequal to the rights afforded to Chicago, Milwaukee, Saint Paul and Pacific Railroad Company employees by section 8 of the Milwaukee Railroad Restructuring Act (45 U.S.C. 907). 93 Stat. 740.

EMPLOYEE PROTECTION AGREEMENTS

SEC. 106. (a) No later than 10 days after the date of enactment of this Act, in order to avoid disruption of rail service and undue displacement of employees, the Rock Island Railroad and labor organizations representing the employees of such railroad, with the assistance of the National Mediation Board, may enter into an agreement providing protection for employees of such railroad who are adversely affected as a result of a reduction in service by such railroad. Such employee protection may include, but need not be limited to, employee relocation incentive compensation, moving expenses, and separation allowances. 45 USC 1005.

(b) If the Rock Island Railroad and the labor organizations representing the employees of such railroad are unable to enter into an employee protection agreement under subsection (a) of this section within 10 days after the date of enactment of this Act, the parties shall immediately submit the matter to the Commission. The Commission shall impose upon the parties by appropriate order a fair and equitable arrangement with respect to employee protection no later than 30 days after the date of enactment of this Act, unless the Rock Island Railroad and the authorized representatives of its employees have by then entered into a labor protection agreement. For purposes of this subsection, the term "fair and equitable" means no less protective of the interests of employees than protection afforded under section 9 of the Milwaukee Railroad Restructuring Act (45 U.S.C. 908), subject to the limitations set forth in section 110 of this title. "Fair and equitable." 93 Stat. 741.

(c) If an employee protection arrangement is imposed by the Commission under subsection (b) of this section, the bankruptcy court shall immediately authorize and direct the Rock Island Railroad trustee to, and the Rock Island Railroad trustee and the labor organizations representing the employees of the railroad shall, immediately implement such arrangement.

(d)(1) An order of the Commission under subsection (b) of this section may not be stayed by the Commission or by any court, and an order of the bankruptcy court under subsection (c) of this section may not be stayed by any other court. Commission or court orders, stays.

(2) Any order described in paragraph (1) of this subsection may be appealed only to the court of appeals of the United States having jurisdiction to review decisions and orders of the bankruptcy court. Any such appeal to such court of appeals shall be filed within 5 days after the date of entry of the order of the Commission or the Appeal.

bankruptcy court, as the case may be, and such court of appeals shall finally determine such appeal within 60 days after the date such appeal is filed. No determination by the court of appeals under this subsection may be reviewed in any other court.

Benefit and allowance claims.

(e)(1) Any claim of an employee for benefits and allowances under an employee protection agreement or arrangement entered into under this section shall be filed with the Board in such time and manner as the Board by regulation shall prescribe. The Board shall determine the amount for which such employee is eligible under such agreement or arrangement and shall certify such amount to the Rock Island Railroad for payment.

(2) Benefits and allowances under such agreement or arrangement entered into under this section shall be paid by the Rock Island Railroad from its own assets or in accordance with section 110 of this title, and claims of employees for such benefits and allowances shall be treated as administrative expenses of the estate of the Rock Island Railroad.

93 Stat. 742.

(f) The first sentence of section 7(b)(7) of the Railroad Retirement Act of 1974 (45 U.S.C. 231f(b)(7)) is amended by striking out "and the Milwaukee Railroad Restructuring Act" and inserting in lieu thereof ", the Milwaukee Railroad Restructuring Act, and the Rock Island Railroad Transition and Employee Assistance Act".

EMPLOYMENT OF ROCK ISLAND RAILROAD EMPLOYEES

Employee and employment lists, preparation and maintenance. 45 USC 1006.

SEC. 107. (a) The Board shall prepare and maintain—

(1) a list of employees separated from employment with the Rock Island Railroad who indicate a desire to appear on a list to be available to rail carriers; and

(2) a list of employment, by class and craft, available with rail carriers,

based upon information submitted to the Board by the Rock Island Railroad and other rail carriers. Upon the request of any rail carrier, the Board shall make available to such carrier a copy of the list described in paragraph (1) of this subsection.

(b) The Board shall maintain the lists required by subsection (a) of this section through December 31, 1984.

ELECTION

Assistance and benefits, reception and waiver. 45 USC 1007.

11 USC 101. 49 USC 10101.

SEC. 108. (a) Any employee who receives any assistance under an employee protection agreement or arrangement entered into under section 106 of this title or any new career training assistance under section 119 of this title shall be deemed to waive any employee protection benefits otherwise available to such employee under the Bankruptcy Act, title 11 of the United States Code, subtitle IV of title 49 of the United States Code, or any applicable contract or agreement.

Statement filing.

(b) Any employee of the Rock Island Railroad who is entitled to receive assistance under this title shall, no later than April 1, 1981, file a statement with the Board indicating whether such employee elects to receive (1) assistance under this title; or (2) any employee protection benefits otherwise available to such employee under the Bankruptcy Act, title 11, United States Code, subtitle IV of title 49, United States Code, or any applicable contract or agreement.

(c) With regard to any employee who elects benefits under subsection (b)(2) of this section, nothing in this title shall be deemed t

determine or otherwise affect the priority, status, or timing of payment of, or the liability for any claim for, employee protection which might have existed in the absence of this title.

Assistance limitations.

(d) An empolyee shall not be eligible to receive any assistance (other than moving expenses) under an employee protection agreement or arrangement entered into under section 106 of this title or any new career training assistance under section 119 of this title—

(1) during any period in which such employee is employed by any rail carrier providing temporary service over any lines of the Rock Island Railroad; or

(2) at any time after the date such employee receives an offer of employment, in his craft and for which such employee is qualified, from a rail carrier acquiring lines of the Rock Island Railroad.

AUTHORIZATION OF APPROPRIATIONS

SEC. 109. (a) Section 14(c) of the Milwaukee Railroad Restructuring Act (45 U.S.C. 913(c)) is amended— 93 Stat. 743.

(1) by inserting "and the Rock Island Railroad Transition and Employee Assistance Act" immediately after "this Act"; and

(2) by adding at the end thereof the following new sentence: "Effective October 1, 1980, there is authorized to be appropriated to the Board an additional $1,000,000 to carry out its administrative expenses under this Act and the Rock Island Railroad Transition and Employee Assistance Act.". Effective date. *Ante*, p. 399.

(b) Section 14(b) of the Milwaukee Railroad Restructuring Act (45 U.S.C. 913(b)) is amended by adding at the end thereof the following new sentence: "Effective October 1, 1980, there is authorized to be appropriated an additional $1,500,000 for new career training assistance under section 12 of this Act and section 119 of the Rock Island Railroad Transition and Employee Assistance Act.". Effective date. 93 Stat. 743. 45 USC 911. *Post*, p. 408

OBLIGATION GUARANTEES

SEC. 110. (a) The Secretary, under the authority of section 511 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 831), shall guarantee obligations of the Rock Island Railroad for purposes of providing employee protection in accordance with the terms of any employee protection agreement or arrangement entered into under section 106 of this title. 45 USC 1008.

(b) Any obligation guaranteed pursuant to this section shall be treated as an administrative expense of the estate of the Rock Island Railroad.

Aggregate unpaid principal amount.

(c) The aggregate unpaid principal amount of obligations which may be guaranteed by the Secretary pursuant to this section shall not exceed $75,000,000.

Total liability.

(d) The total liability of the Rock Island Railroad in connection with benefits and allowances provided under any employee protection agreement or arrangement entered into under section 106 of this title shall not exceed $75,000,000.

(e) Except in connection with obligations guaranteed under this section, the United States shall incur no liability in connection with any employee protection agreement or arrangement entered into under section 106 of this title.

(f) Section 511(g) and section 516 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 831(g) and 836) shall not apply to any obligation guaranteed under this section.

EXPEDITED PROCEEDINGS

45 USC 1009.

SEC. 111. (a) The Commission shall give all proceedings involving the Rock Island Railroad preference over all other pending proceedings related to rail carriers and make all of its decisions at the earliest practicable time.

(b) The Commission shall, within 100 days of the filing of an application (or such shorter period as the Court may set) pursuant to section 17 of the Milwaukee Railroad Restructuring Act (45 U.S.C. 915), reach a decision on all proceedings filed after January 1, 1980, which involve a sale, transfer or lease of any line of the Rock Island Railroad to a solvent carrier.

93 Stat. 744.

TRANSACTION ASSISTANCE

SEC. 112. Section 505 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825) is amended by adding at the end thereof the following new subsection:

"(h) PURCHASE OF ESSENTIAL PROPERTIES FOR COMMON CARRIER SERVICE.—(1) Notwithstanding subsections (a) through (g) of this section (other than subsections (b)(2) and (d)(3)), the Secretary shall, upon application of a noncarrier entity—

93 Stat. 744.

"(A) purchase, from funds available on May 1, 1980, not less than $25,000,000 in redeemable preference shares, bonds, or trustee certificates convertible to redeemable preference shares under this section as necessary for the purchase, lease, or rehabilitation of properties of the Rock Island Railroad by responsible noncarrier entities to be used for common carrier rail service; and

"(B) purchase not more than $18,000,000 in redeemable preference shares or trustee certificates convertible to redeemable preference shares under this section as necessary for the purchase of properties of the Milwaukee Railroad by responsible noncarrier entities to be used for common carrier rail service, to the extent that the Secretary determines that funds are available.

"(2) Preference shares, bonds, and trustee certificates purchased under this subsection shall be purchased under terms and conditions that insure that the applicant will be financially capable of making the requisite dividend or interest and redemption or principal payments without impairing its financial resources, and the Secretary shall insure that all assistance provided under this subsection is likely to be repaid or can be secured.

Noncarrier entity, description.

"(3)(A)(i) For purposes of this subsection, a responsible noncarrier entity may include an association composed of representatives of national railway labor organizations, employee coalitions, shippers, or any combination thereof, and States or State organizations, which wish to acquire, lease, or rehabilitate properties of the Rock Island Railroad or the Milwaukee Railroad pursuant to a feasible employee, employee-shipper, or State ownership plan. A responsible noncarrier entity may also include any railroad that wishes to contribute any of its properties under common ownership with the property being acquired by the association.

Ownership plan, submittal to Secretary.

"(ii) Any ownership plan described in clause (i) of this subparagraph shall be submitted to the Secretary no later than August 20, 1980, or such later date as the Secretary considers appropriate.

"(B) For purposes of this subsection, the return on redeemable preference shares shall be the minimum established pursuant to section 506(a)(3) of this title. 45 USC 826.

"(4) This subsection shall apply to purchase applications filed with the Commission prior to September 15, 1980, and approved by the court having jurisdiction over the reorganization of the Rock Island Railroad or the Milwaukee Railroad, as the case may be, and by the Commission.".

APPLICABILITY OF NEPA AND EPCA

SEC. 113. The provisions of the National Environmental Policy Act and section 382(b) of the Energy Policy and Conservation Act (42 U.S.C. 6362(b)) shall not apply to transactions carried out pursuant to this title. 45 USC 1010. 42 USC 4321 note.

AUTHORITY OF THE RAILROAD RETIREMENT BOARD

SEC. 114. (a) The Board may prescribe such regulations as may be necessary to carry out its duties under this title. 45 USC 1011.

(b) In carrying out its duties under this title, the Board may exercise such of the powers, duties, and remedies provided in subsections (a), (b), and (d) of section 12 of the Railroad Unemployment Insurance Act (45 U.S.C. 362 (a), (b), and (d)) as are not inconsistent with the provisions of this title.

PUBLICATIONS AND REPORTS

SEC. 115. Within 45 days after the date of enactment of this Act, the Board shall publish, and make available for distribution by the Rock Island Railroad to all eligible employees, a document which describes in detail the rights of such employees under sections 106, 107, 108, and 119 of this title. 45 USC 1012.

AMENDMENTS TO MILWAUKEE RAILROAD RESTRUCTURING ACT

SEC. 116. Section 18 of the Milwaukee Railroad Restructuring Act (45 U.S.C. 916) is amended— 93 Stat. 746.

(1) by striking "Until" and inserting in lieu thereof "(a) Except as provided in subsection (b) of this section, until"; and

(2) by adding at the end thereof the following new subsection:

"(b) The Commission shall upon request provide for directed service, not to exceed 30 days during the period immediately prior to acquisition, on the Milwaukee Railroad under section 11125 of title 49, United States Code. Such directed service shall be limited to those lines or line segments where legislation has been enacted by a State legislature prior to the date of enactment of this subsection which would provide for such State to tender a bona fide offer for acquisition of such lines or line segments. The Commission may order directed service by the Milwaukee Railroad under this subsection without inclusion of a 6 percent profit factor. The Commission shall take the action described in this subsection only in the event that the Secretary of Transportation determines that such service cannot be continued under the Emergency Rail Service Assistance Act.". Directed service.

RAIL TECHNOLOGICAL IMPROVEMENTS

45 USC 1013.

SEC. 117. Notwithstanding any other provision of law, the Secretary may, after a hearing and consistent with findings based upon evidence developed therein or pursuant to expressions of agreement between national railroad labor representatives and the developer or operator of new equipment or technology, to exempt from the mandatory requirements of the provisions of the Act of March 2, 1893, the Act of March 2, 1903, and the Act of April 14, 1910 (45 U.S.C. 1 through 16), also referred to as the Safety Appliance Acts, any railroad equipment, or equipment which will be operated on rails, when such requirements preclude the development or implementation of more efficient railroad transportation equipment or other transportation innovations under the existing statutes.

AMENDMENTS TO THE REGIONAL RAIL REORGANIZATION ACT OF 1973

SEC. 118. (a) Section 216(f)(5) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(f)(5)) is amended by adding the following sentence after the first sentence thereof: "For purposes of this subsection, the Railway Labor Executives' Association shall be deemed to represent all of the representatives of crafts or classes of employees of the Corporation and its subsidiaries as though that organization held powers of attorney from each representative of a craft or class for the limited purposes of negotiating and agreeing upon an employee stock ownership plan.".

Crafts or classes of employees, representation.

(b) Section 216(f)(5) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(f)(5)) is further amended by adding the following sentence after the second sentence thereof: "The plan shall not be subject to change under the provisions of section 6 of the Railway Labor Act until after such time as securities have been distributed from the plan to the participants in the plan or their beneficiaries pursuant to the terms of the plan.".

(c) Section 216(f) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(f)) is further amended by adding the following at the end thereof:

Fiduciary responsibility.

"(8)(A) Except as provided in subparagraph (B) of this paragraph, no person described in subparagraph (C) of this paragraph shall have or be subject to any fiduciary responsibility, obligation, or duty, nor shall any such person be subject to civil liability, under any Federal or State law, as a fiduciary or otherwise—

"(i) in connection with the employee stock ownership plan and related trust established by the Corporation pursuant to the requirements of this subsection or with ConRail Equity Corporation (I) on account of any reorganization or restructuring of the Corporation, its successors or assigns, or their assets or capital structure, or (II) on account of any action taken or not taken by the Corporation which may affect its ability to attain the performance levels established in connection with the plan pursuant to paragraph (2)(A)(ii) of this subsection;

"(ii) for or in connection with the establishment, continuation or implementation of the plan and related trust or of ConRail Equity Corporation or the acquisition of, investment in or retention of any security of the Corporation or ConRail Equity Corporation, or of any of their successors and assigns, by the plan or ConRail Equity Corporation, or the disposition of any such security to the extent that such disposition is made in connection with a reorganization or restructuring of the Corporation, its successors and assigns, or their assets or capital structure, as directed or approved by or on behalf of the Association or the United States, or the acquisition or retention of any cash, security or other property received in connection with any such reorganization or restructuring; or

"(iii) for or in connection with any other action taken or not taken pursuant to any term or condition of the plan or related trust agreement or of the articles of incorporation or bylaws of ConRail Equity Corporation.

Any directions described in clauses (i)(I), (ii), or (iii) shall be taken at the direction, or with the consent, of the Association or of the Secretary or his designate.

"(B) Subparagraph (A) of this paragraph shall not be interpreted to relieve any person from any fiduciary or other responsibility, obligation or duty under any Federal or State law to take or not to take actions with respect to the plan in connection with (i) receiving contributions, (ii) exercising custodial responsibilities, (iii) determining eligibility to participate in the plan, (iv) calculating, determining and paying benefits, (v) processing and deciding claims, (vi) preparing and distributing plan information, benefit statements, returns and reports, (vii) maintaining plan records, (viii) appointing plan fiduciaries and other persons to advise or assist in plan administration and (ix) other than as provided in subparagraph (A), acquiring, holding or disposing of plan assets.

"Person."

"(C) For purposes of subparagraph (A) of this paragraph, the term 'person' includes each of the following:

"(i) the trustee or trustees of the plan, the Corporation and its subsidiaries, ConRail Equity Corporation, the Association, and any of their successors and assigns;

"(ii) each director, officer, employee and agent of the Corporation of any of its subsidiaries, of ConRail Equity Corporation, of the plan, of the Association or of any of their successors and assigns; and

"(iii) each member of the Finance Committee and any of their employees and agents.

"(D) Neither this paragraph nor paragraph (9) of this subsection shall be construed to grant immunity from any criminal law of the United States or of any State or the District of Columbia.

Indemnity.

"(9) The United States shall indemnify, defend, and hold harmless the persons described in paragraph (8)(C) of this subsection from and against any and all liabilities, claims, actions, judgments, amounts paid in settlement, and costs and expenses (including reasonable fees of accountants, experts, and attorneys) actually incurred in connection with the establishment, implementation, or operation of the plan or ConRail Equity Corporation or with any transaction which is required by or is appropriate to effectuate fully the provisions of this subsection,

except as may arise in connection with the execution of a responsibility, obligation, or duty excluded from paragraph (8)(A) by paragraph (8)(B), if it is determined that such persons were acting in good faith. The indemnity provided in this paragraph shall be a full faith and credit obligation of the United States.

Corporation securities.

"(10) All securities of the Corporation, all securities of any subsidiary of the Corporation and of ConRail Equity Corporation, and all interests in the employee stock ownership plan which are issued or transferred in connection with the employee stock ownership plan established by the Corporation pursuant to the requirements of this subsection shall be deemed for all purposes to have been issued subject to and authorized and approved pursuant to section 11301(b) of title 49 of the United States Code and any corresponding provision of any successor statute.".

NEW CAREER TRAINING ASSISTANCE

45 USC 1014.

SEC. 119. (a) An employee who elects to receive a separation allowance from the Rock Island Railroad under an employee protection agreement or arrangement entered into under section 106 of this title may receive from the Board reasonable expenses for training in qualified institutions for new career opportunities.

Eligibility.

(b) To be eligible for assistance under this section, an employee—

(1) must first exhaust any Federal educational benefits available to such employee under any existing program; and

(2) must begin his course of training within 2 years following the date of such employee's separation from employment with the Rock Island Railroad.

(c) Reasonable expenses for assistance under this section shall be determined by the Board on the basis of an application therefor filed by an employee with the Board.

Termination date.

(d) No assistance may be provided under this section after April 1, 1984.

(e) As used in this section—

"Expenses."

(1) the term "expenses" means actual, reasonable expenses paid for room, board, tuition, fees, or educational material in an amount not to exceed $3,000; and

"Qualified institution."

38 USC 1770 *et seq.*

(2) the term "qualified institution" means an educational institution accredited for payment by the Veterans' Administration under chapter 36 of title 38 of the United States Code, or a State-accredited institution which has been in existence for not less than 2 years.

93 Stat. 743.

(f) Section 12(e)(2) of the Milwaukee Railroad Restructuring Act (45 U.S.C. 911(e)(2)) is amended by inserting the following immediately before the period at the end thereof: ", or a State-accredited institution which has been in existence for not less than two years".

DIRECTED SERVICE

45 USC 1015.

SEC. 120. (a) In the event agreement cannot be reached between the Rock Island Railroad and any party desiring to provide commuter service, the Commission shall order directed service, for the 2-year period beginning on the date of enactment of this Act, over any passenger commuter line of the Rock Island Railroad that was in operation on March 1, 1980, if the directed service carrier agrees to provide such service without payment under section 11125(b)(5) of title 49 of the United States Code. If the parties are unable to agree on

compensation, the trustee of the Rock Island Railroad shall receive compensation for the property and facilities of the Rock Island Railroad on terms determined by the Commission to be reasonable.

(b) Notwithstanding any other provision of law, a passenger commuter line of the Rock Island Railroad over which directed service is provided pursuant to this section may not be abandoned, and service over such line may not be discontinued, during the period of such directed service. Abandonment restriction.

TEMPORARY RAIL BANKING

SEC. 121. During the 180-day period beginning on the date of enactment of this Act, no rail line or facility of the Rock Island Railroad which has been approved for abandonment by the Commission or the bankruptcy court may be downgraded, scrapped, or otherwise disposed of without the approval of the Secretary under this section. In no case before abandonment has been approved and before the 180-day period has elapsed shall the Secretary approve a disposition of such portion of the rail line or related facility to any carrier or other entity not engaged in providing railroad services or not formed for the purpose of providing railroad services. The Secretary, upon application by the Rock Island Railroad, shall grant such approval unless he finds that— Approval by Secretary. 45 USC 1016. Disapproval conditions.

(1) a rail carrier, shipper, State, or other interested party has expressed in writing an interest in purchasing, leasing or rehabilitating the particular rail line or facility for purposes of providing rail service; and

(2) there is a reasonable expectation that such purchase transaction will be consummated.

TEMPORARY OPERATING APPROVAL

SEC. 122. (a) The Commission may authorize any rail carrier willing to do so voluntarily to use the tracks and facilities of the Rock Island Railroad or the Milwaukee Railroad. The use of such tracks and facilities shall be under such terms of compensation as the carriers establish between themselves, or if the carriers are unable to agree, under such terms of compensation as the Commission finds to be reasonable. 45 USC 1017.

(b) In carrying out the provisions of this section, the Commission shall require, to the maximum extent practicable, the use of the employees who would normally have performed work in connection with the traffic subject to the action of the Commission.

(c) As used in this section, the term "Milwaukee Railroad" means the Chicago, Milwaukee, Saint Paul and Pacific Railroad Company. "Milwaukee Railroad."

DEFINITION OF RESTRUCTURED MILWAUKEE RAILROAD

SEC. 123. Section 3(6) of the Milwaukee Railroad Restructuring Act (45 U.S.C. 902(6)) is amended to read as follows: 93 Stat. 736.

"(6) the term 'restructured Milwaukee Railroad' means the entity that is designated as the reorganized railroad under the reorganization plan for the Milwaukee Railroad finally certified by the Commission.". "Restructured Milwaukee Railroad."

SAVINGS PROVISION

SEC. 124. If any provision of this title or the application thereof to any person or circumstance is held invalid, the remainder of this title 45 USC 1001 note.

and the application of such provision to other persons or circumstances shall not be affected thereby.

TITLE II—RAIL PASSENGER CORRIDORS

Passenger Railroad Rebuilding Act of 1980.

SHORT TITLE

45 USC 501 note.

SEC. 201. This title may be cited as the "Passenger Railroad Rebuilding Act of 1980".

RAIL PASSENGER CORRIDOR SERVICE

SEC. 202. Section 703 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 853) is amended—

(1) in the first sentence, by striking "goals:" and inserting in lieu thereof "goals to the extent compatible with the amount of authorizations specified in section 704 of this title:";

45 USC 854.

(2) in paragraph (1)(A)(i) thereof, by striking "Within 5 years after the date of enactment of this Act," and inserting in lieu thereof "No later than September 30, 1985,"; and

(3) in the fourth sentence of paragraph (1)(E), by striking out "6" and inserting in lieu thereof "9".

SEPARATION OF PASSENGER AND FREIGHT TRAFFIC

SEC. 203. Section 703 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 853) is further amended—

(1) by inserting "(A)" immediately after the paragraph heading in paragraph (3) and by adding at the end of such paragraph the following:

Alternate off-corridor routing plans.

"(B)(i) Within 6 months after the date of enactment of the Passenger Railroad Rebuilding Act of 1980, the Secretary shall develop plans for alternate off-corridor routings of freight traffic over lines along the Northeast Corridor between the Washington, District of Columbia Metropolitan area and the New York Metropolitan area, including intermediate points.

Agreements with rail freight carriers.

"(ii) The Secretary may enter into agreements with rail freight carriers and regional transportation agencies for a period of no less than 5 years to provide for the implementation by such rail carriers of the off-corridor routings on such terms and conditions as the parties may agree. Promptly upon reaching such agreement, the Secretary shall apply to the Commission for approval of the agreement and all related agreements accompaning such application.

"(iii) If the Commission finds that approval of such agreements is necessary to carry out the purposes of this Act, it shall, within 90 days after the receipt of the application, approve such application and related agreements including the provision of service use of tracks and facilities as provided in such application.

"(iv) If the Secretary and any other involved rail freight carriers are unable to reach the agreement or agreements necessary as provided in clause (ii) of this subparagraph, the Secretary may, with the consent of all involved rail freight carriers, make application to the Commission which shall, within 90 days after such application, if it finds that doing so is necessary to carry out the purposes of this Act, find the terms and conditions for the agreement necessary and such terms and conditions shall be binding upon all involved rail freight carriers.

"(v) Within 12 months after the date of enactment of the Passenger Railroad Rebuilding Act, the Secretary shall submit to the Congress a report on:

Report to Congress.

Ante, p. 410.

"(I) an evaluation of the extent to which passenger and freight operations should be separated in the Northeast Corridor; and

"(II) an evaluation of any operational, safety, maintenance, or other problems of mixing freight and passenger service on the same rail lines.

In the preparation of such report, the Secretary shall consult with the Comptroller General of the United States, the National Railroad Passenger Corporation, the Association, affected railroads, and other interested parties. The Secretary, in preparing such report, shall consider such factors as congestion, delays to both passengers and freight, fuel efficiency, safety, the control of train operations, and the impact of diversion to other modes and the impact of diversion on other modes."; and

Consultation.

(2) by adding at the end thereof the following new paragraph:

"(6) ELIMINATION OF CONGESTION.—The elimination, to the maximum extent practicable, of congestion in rail freight and rail passenger traffic at the Baltimore and Potomac Tunnel in Baltimore, Maryland, by the rehabilitation and improvement of such tunnel and the rail lines approaching such tunnel, for purposes of implementing the Northeast Corridor improvement project under this title.".

Baltimore and Potomac Tunnel, Md.

AUTHORIZATION OF APPROPRIATIONS

SEC. 204. (a) Section 704(a) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 854(a)) is amended—

(1) in paragraph (1) thereof, by striking "$1,600,000,000" and inserting in lieu thereof "$2,313,000,000";

(2) in paragraph (1) thereof, by striking out "and after such goals have been achieved, the goals of section 703(1)(A)(ii)";

(3) by striking the period at the end of paragraph (3) and inserting in lieu thereof "; and"; and

(4) by adding at the end thereof the following new paragraph:

"(4) $37,000,000 to remain available until expended in order to effectuate the goals of section 703(3)(B) and section 703(6) of this title.".

45 USC 853.

(b) Section 704 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 854) is amended by adding at the end thereof the following new subsections:

"(h) ACQUISITION OF REAL PROPERTY.—The Secretary is authorized to acquire for the United States, by lease, purchase, condemnation, or otherwise, any interest in real property (including lands, easements, and rights-of-way, and any other property interests, including contract rights) which the Secretary considers necessary to effectuate the goals of section 703 of this title.

"(i) REIMBURSEMENT AGREEMENTS.—Where a portion of the costs of improvements authorized under section 703 of this title are to be borne by a State or local or regional transportation authorities or other responsible parties, the Secretary is authorized to enter into agreements with such cost-sharing parties providing for the Secretary to carry out such improvements with funds appropriated pursuant to this section and requiring reimbursement to the Secretary by the cost-sharing parties of their portion of the costs of such improvements. Where the Secretary has entered into such reimbursement agreements, the Secretary is further authorized, to the extent and in

the amounts provided in appropriation Acts, to incur obligations for contracts to carry out such improvements in anticipation of such reimbursement. Funds reimbursed to the Secretary shall be credited to the appropriation originally charged for the costs of such improvements and shall be available for further obligation.

"(j) EXCESS EQUIPMENT AND OTHER PROPERTY.—Notwithstanding the provisions of section 202 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 483) or of any other law, the Secretary may transfer to the National Railroad Passenger Corporation, in accordance with procedures which the Secretary shall establish, excess real or personal property from the Northeast Corridor improvement project. As consideration to the United States for such transfer, property so transferred shall be made subject to the mortgage entered into pursuant to subsection (e) of this section. For purposes of this subsection, the term 'excess real or personal property' means—

"Excess real or personal property."

"(1) any interest in real property acquired under the authority of subsection (h) of this section which is determined by the Secretary to be (A) usable by the National Railroad Passenger Corporation, and (B) no longer required by the Federal Government in order to implement the Northeast Corridor improvement project; or

"(2) any item of personal property, such as equipment, which is acquired with funds authorized under this section.".

Effective date. 45 USC 854 note.

(c) The amendments made by this section shall take effect on October 1, 1980.

MANAGEMENT GOAL

SEC. 205. Section 701 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 851) is amended by adding at the end thereof the following new subsection:

"(d) MANAGEMENT GOAL.—(1) It shall be a goal of the National Railroad Passenger Corporation to manage its operating costs, pricing policies, and other factors so that annual revenues derived from the operation of intercity rail passenger service over the Northeast Corridor route between Washington, District of Columbia, and Boston, Massachusetts, shall equal or exceed:

"(A) 55 percent of the annual operating costs of providing such service in fiscal year 1981;

"(B) 75 percent of the annual operating costs of providing such service in fiscal years 1982 through 1986; and

"(C) 100 percent of the annual operating costs of providing such service in subsequent fiscal years.

"(2) The National Railroad Passenger Corporation shall include in the annual report required by sections 308 and 805 of the Rail Passenger Services Act a discussion and accounting of its success in meeting the goal specified in paragraph (1) of this subsection.".

93 Stat. 542; 45 USC 548, 644.

TRANSFER OF AUTHORITY

SEC. 206. (a) Title VII of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 851 et seq.) is amended by redesignating sections 705 and 706 as sections 706 and 707, respectively, and by inserting after section 704 the following new section:

45 USC 543, 545, 546, 562–564, 791.
49 USC 1653.

"TRANSFER OF AUTHORITY

45 USC 855.
Ante, p. 410.

"SEC. 705. (a) TRACK IMPROVEMENTS.—Within 90 days after the date of enactment of the Passenger Railroad Rebuilding Act of 1980, the

Secretary and the National Railroad Passenger Corporation shall agree on the reallocation to the Corporation of authority and responsibility with respect to the contracting of construction solely related to track improvements in connection with the Northeast Corridor improvement project.

"(b) OTHER AUTHORITY.—Effective October 1, 1985, the Secretary shall transfer to the Corporation all authority and responsibility, for carrying out the Northeast Corridor improvement project and implementing the goals of section 703 of this title.". 45 USC 853.

(b) The table of contents of the Railroad Revitalization and Regulatory Reform Act of 1976 is amended by striking out the items relating to sections 705 and 706 and inserting immediately after the item relating to section 704 the following:

"Sec. 705. Transfer of authority.
"Sec. 706. Conforming amendments.
"Sec. 707. Facilities with historical or architectural significance.".

WORKING CAPITAL FUND

SEC. 207. Section 9 of the Department of Transportation Act (49 U.S.C. 1657) is amended by adding at the end thereof the following new subsection:

"(r)(1) The Secretary is authorized to establish a working capital fund for financing the activities of the Transportation Systems Center. Such fund will be effective on October 1, 1980, and shall be available without fiscal year limitation. The Transportation Systems Center is authorized to perform research, development, test, evaluation, analysis, and other related activities as the Secretary may direct for the Department and other Government agencies and, when approved by the Secretary or his designee, for State and local governments, other public authorities, private sources, and foreign countries. Transportation Systems Center. Effective date.

"(2) The capital of the fund shall consist of— Capital included in fund.

"(A) the net assets of the Transportation Systems Center as of October 1, 1980, including any unexpended advances made to the Center for which valid obligations are incurred as of September 30, 1980;

"(B) any appropriations to the fund, which are hereby authorized to be made; and

"(C) the fair and reasonable value of property or other assets transferred to the fund after September 30, 1980, by the Department and other agencies of the Government less the related liabilities and unpaid obligations, and the fair and reasonable value of property or other assets donated to the fund from other sources.

"(3) The fund shall be reimbursed or credited with advance payments from applicable funds or appropriations of the Department and other Federal agencies, and with advance payments from other sources, as authorized by the Secretary or his designee, for services provided at rates that will recover the expense of operation, including accrual of annual leave and overhead, and for acquisition of property and equipment in accordance with regulations to be issued by the Secretary. The fund shall also be credited with receipts from the sale or exchange of property or in payment for loss or damage of property held by the fund. Fund reimbursements and credits.

"(4) At the close of each fiscal year, there shall be transferred into the Treasury as miscellaneous receipts any funds accumulated which Surplus funds, transfer to Treasury.

the Secretary determines to be surplus to the needs of the working capital fund.".

AMENDMENT TO RAIL PASSENGER SERVICE ACT

Repeal.
Effective date.

SEC. 208. Effective October 1, 1980, section 601(b)(3) of the Rail Passenger Service Act of 1970 (45 U.S.C. 601(b)(3)) is repealed.

PRIORITIES FOR IMPROVEMENTS

45 USC 853.
Ante, p. 410.

SEC. 209. Section 703 of the Railroad Revitalization and Regulatory Reform Act of 1976 is further amended by adding at the end thereof the following new paragraph:

"(7) PRIORITIES FOR IMPROVEMENTS.—The following considerations shall be applied to the selection and scheduling of specific projects, in the following order:

"(A) Safety of the passengers and users of the Northeast Corridor must be paramount, and safety-related items should be completed prior to other items.

"(B) Potential ridership should be considered, with those activities which benefit the greatest number of passengers completed before those involving fewer passengers.

"(C) Reliability of intercity passenger service must be emphasized.

"(D) Trip-time requirements of this Act must be achieved to the extent compatible with the priorities cited in subparagraphs (A) through (C) of this paragraph.

"(E) Reducing maintenance cost levels is desirable, and improvements which will pay for the investment by achieving lower operating or maintenance cost should be implemented.

"(F) On-time performance of Northeast Corridor commuter and freight operations must be optimized, and construction operations should be scheduled in order that the fewest possible passengers are inconvenienced and service is maintained.

"(G) Planning should focus on completing activities which will provide immediate benefits to the users of the Northeast Corridor.".

AUTHORITY OF THE SECRETARY

Ante, p. 411.

SEC. 210. Section 704(c) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 854(c)) is amended—

(1) by striking out "COORDINATION.—The Secretary" and inserting in lieu thereof "COORDINATION AND CONSULTATION.—(1) The Secretary"; and

(2) by adding at the end thereof the following new paragraph:

"(2) The Secretary shall consult with the Secretary of Housing and Urban Development and the Secretary of Commerce and with other appropriate Federal officials to take steps to utilize Federal funds from the several Federal departments to assist and encourage public and private redevelopment in the vicinity of urban rail stations on the Northeast Corridor served by intercity and commuter rail service for purposes of aiding in the revitalization of urban areas around such stations. The Secretaries shall, within one year after the date of the enactment of this subsection, report to the Congress on the methods by which Federal funds from the several Federal depart-

Report to Congress.

ments have been and will be coordinated to achieve urban redevelopment and revitalization in the vicinity of such stations.".

DEMONSTRATION SERVICE

SEC. 211. Section 601(b)(1)(B) of the Rail Passenger Service Act (45 U.S.C. 601(b)(1)(B)) is amended by inserting immediately after "1981," the following: "of which $500,000 may be expended for the purchase of a self-propelled single car capable of carrying 50 to 60 passengers for purposes of demonstrating the feasibility of developing feeder service to basic system service and State subsidized service,". 93 Stat. 550.

RAIL PASSENGER CORRIDORS

SEC. 212. The Rail Passenger Service Act (45 U.S.C. 501 et seq.) is further amended by adding at the end thereof the following new title:

"TITLE X—RAIL PASSENGER CORRIDORS

"SEC. 1001. DEVELOPMENT OF EVALUATION METHOD. 45 USC 651.

"(a) The Secretary, in consultation with the Corporation, shall develop a method for evaluating rail passenger corridors.

"(b)(1) The evaluation method developed by the Secretary under this section shall be designed to determine which corridors (A) have the greatest potential for attracting riders on rail passenger service in the corridor, (B) have the greatest potential to reduce energy consumption, and (C) are capable of providing cost-effective rail passenger service.

"(2) In developing an evaluation method for purposes of making the determinations described in paragraph (1) of this subsection, the Secretary shall consider at least each of the following factors:

"(A) Potential ridership.

"(B) Operating costs and revenues.

"(C) Preliminary information on the costs of capital expenditures required.

"(D) Economic and demographic growth projections.

"(E) The evidence of State commitment to rail passenger service.

"(F) The adequacy of energy efficiency of other transportation modes in the area served.

"(c) The Secretary shall, in consultation with the Corporation, determine which corridors have the greatest potential to attract riders, reduce energy consumption, and provide cost effective rail passenger service according to the evaluation method developed under subsection (a), and shall establish a priority ranking of such corridors. Corridor priority ranking.

"(d) The Secretary shall, within 60 days after the date of enactment of this title, submit the proposed method for evaluating rail passenger corridors (together with explanatory material) and the ranking of the corridors with the greatest potential to both Houses of Congress and to the Committee on Interstate and Foreign Commerce of the House of Representatives and to the Committee on Commerce, Science, and Transportation of the Senate. Proposed method, submittal to Congress and congressional committees.

"SEC. 1002. DESIGN AND ENGINEERING. 45 USC 652.

"(a) Upon completion of the Secretary's ranking of corridors under section 1001 of this title, the Corporation shall develop design and

engineering plans to the extent necessary to provide accurate information on capital expenditures for improvements and equipment, operating cost projections, running times, and other information which the Corporation, in consultation with the Secretary, determines necessary to complete an accurate assessment of the anticipated costs and benefits of instituting new service in such corridors.

"(b) In preparing a design and engineering plan for a corridor under this section, the Corporation shall consult with the Secretary and shall request the views of the appropriate officials of each State in such corridor.

Cooperation with rail carriers.

"(c)(1) The Corporation shall develop a design and engineering plan for a corridor under this section cooperatively with the rail carriers that own tracks and facilities used or to be used in providing passenger service in such corridor.

"(2) If a rail carrier described in paragraph (1) or this subsection is unwilling to cooperate with the Corporation in developing a design and engineering plan, the Corporation may apply to the Secretary for assistance in obtaining such cooperation. The Secretary may require such a private rail carrier to cooperate with the Corporation in developing such plan, and shall fix an amount which the Corporation shall reimburse such carrier for the work it performs.

Required cooperation.

45 USC 653.

"SEC. 1003. FINAL CORRIDOR EVALUATION.

Report to Congress and congressional committees.

"(a) The Secretary and the Corporation shall prepare a final corridor evaluation and submit a report to both Houses of Congress and to the Committee on Interstate and Foreign Commerce of the House of Representatives and to the Committee on Commerce, Science, and Transportation of the Senate with respect to each corridor. Such report shall include for each corridor—

"(1) ridership projections for rail passenger service in such corridor;

"(2) operating cost and revenue projections for such corridor;

"(3) projected capital expenditures, as determined by the Corporation under section 1002, for improvements in such corridor.

Corridor evaluations report.

"(b) The Secretary and the Corporation shall submit such a report on corridor evaluations by February 15, 1981. If the Secretary and the Corporation believe that further analysis is required after February 15, 1981, they shall submit a supplemental report with such additional information.

45 USC 654.

"SEC. 1004. EQUIPMENT ACQUISITION.

"The Corporation shall, to the extent of funds available under section 1008(a)(2) of this title, acquire necessary equipment for purposes of providing service in rail passenger corridors.

45 USC 655.

"SEC. 1005. PRIVATE SECTOR DEVELOPMENT.

"(a) The Secretary shall encourage the private sector development of potential rail passenger corridors, including the corridor between Atlantic City, New Jersey, and Philadelphia, Pennsylvania.

"(b) In order to carry out the purposes of this section, the Secretary shall—

"(1) in cooperation with private rail carriers, the Corporation, the Consolidated Rail Corporation, commuter agencies, and State and local transportation authorities, take all necessary steps to remove institutional and legal barriers to the private development of rail passenger corridors;

"(2) ensure that investment of Federal funds in contiguous corridors is coordinated with privately developed corridors; and

"(3) coordinate the investment of Federal funds with State, local, and private funds for nonoperational improvements, such as stations, in privately developed corridors.

"(c) The Secretary shall, no later than February 15, 1981, submit a report to the Congress describing the action taken under this section. Report to Congress.

45 USC 656.

"SEC. 1006. SPEED RESTRICTIONS.

"(a) The Corporation shall identify any restriction imposed by a State or local government on the speed of Amtrak trains that the Corporation determines impedes the achievement of high-speed intercity rail passenger service by the Corporation.

"(b) The Corporation shall consult with each State or local government that imposes a speed restriction identified under subsection (a) of this section, for purposes of (1) evaluating alternatives to such speed restriction, taking into account the particular local safety hazard which is the basis for such restriction, and (2) considering the possibility of eliminating or modifying such speed restriction in order to permit safe operations at higher speeds in the State or locality involved.

45 USC 657.

"SEC. 1007. SERVICE BETWEEN CORRIDORS.

"If the Corporation determines that improvements in or institution of rail passenger service on a route between corridors would be justified by an increase in overall ridership on Amtrak trains, the Corporation shall undertake such service or improvements in such service as it considers appropriate in order to increase ridership on such route and in the connecting corridors.

45 USC 658.

"SEC. 1008. AUTHORIZATION OF APPROPRIATIONS.

"(a) There are authorized to be appropriated to the Secretary—

"(1) for the evaluation of corridors under sections 1001 and 1003 of this title and for the benefit of the Corporation in preparing design and engineering plans under section 1002 of this title, not to exceed $38,000,000 for the fiscal year ending September 30, 1981; and

"(2) for the acquisition of equipment under section 1004 of this title, not to exceed $25,000,000 for the fiscal year ending September 30, 1982.

"(b) There is authorized to be appropriated, out of funds available under section 704(a)(1) of the Railroad Revitalization and Regulatory Reform Act of 1976, for private sector development under section 1005 of this title, not to exceed $200,000 for the fiscal year ending September 30, 1981. *Ante*, p. 411.

"(c) Amounts appropriated under subsection (a) of this section are authorized to remain available until expended.".

AMTRAK INTERCITY SERVICE

SEC. 213. Section 403(d)(2) of the Rail Passenger Service Act (45 U.S.C. 563(d)(2)) is amended by striking out "April 1, 1981" and inserting in lieu thereof "October 1, 1981". 93 Stat. 544.

CONRAIL EMPLOYEE PROTECTION

SEC. 214. (a) The Consolidated Railroad Corporation shall make payments in accordance with title V of the Regional Rail Reorganiza- 45 USC 779 note.

45 USC 771.

tion Act of 1973, and the United States Railway Association shall not, as a result of such payments, withhold any funds from the Corporation.

(b) This section shall take effect as of March 1, 1980, and shall remain in effect until the expiration of the 45-day period beginning on the date of enactment of this Act. After the expiration of such 45-day period, payments by the Consolidated Rail Corporation under title V of the Regional Rail Reorganization Act of 1973, and funding of the Corporation by the United States Railway Association, shall be governed by applicable law.

RELOCATION OF FACILITIES

SEC. 215. (a) The Secretary of Transportation may not take any action with respect to the relocation of the Amtrak maintenance-of-way facility at Bristol, Pennsylvania, until 60 days after the date the Secretary reports to the Congress under subsection (b) of this section.

Report to Congress.

(b) The Secretary of Transportation shall consider and report to the Congress with respect to—

(1) preliminary design plans for sites which are potential alternatives to the maintenance-of-way facility referred to in subsection (a) of this section;

(2) the current value, current use, and alternative uses of such potential alternative sites;

(3) potential labor protection costs to be incurred in the maintenance-of-way relocation; and

(4) potential problems arising from jurisdictional labor disputes arising as a result of such a relocation.

OPERATION OF ADDITIONAL TRAINS

SEC. 216. Section 402 of the Rail Passenger Service Act (45 U.S.C. 562) is amended by adding at the end thereof the following new subsection:

93 Stat. 542.

Ordered operations, application and hearing.

"(h) Upon receipt of an application from the Corporation in any situation where the Corporation is unable to obtain a satisfactory, voluntary agreement from a rail carrier for operation of additional trains on the rail lines of that rail carrier, the Secretary may, after a hearing on the record, order such rail carrier, within 60 days, to permit or provide requested operation of trains of the Corporation over such rail lines on schedules based upon legally permissible operating times. If the Secretary determines not to hold a hearing, the Secretary, within 30 days after receipt of an application from the Corporation, shall publish in the Federal Register his reasons for not holding a hearing. Any such hearing must include a consideration of whether such an order would unduly impair freight operations of the rail carrier involved, and the burden shall be on the rail carrier seeking to oppose the operation of an additional train to demonstrate that the requested operation will impair freight operations. In establishing such scheduled running times, the Secretary shall give proper consideration to the statutory goal that the Corporation shall implement schedules which will attain a system-wide average speed of at least 55 miles per hour which can be adhered to with a high degree of reliability and passenger comfort. The compensation payable by the Corporation to a rail carrier for an operation ordered pursuant to this subsection shall be that which is properly established pursuant to an agreement between the Corporation and such rail carrier, or, in the

Publication in Federal Register.

Compensation.

absence of an applicable agreement, shall be determined by the Commission in a proceeding pursuant to subsection (a) of this section.".

Approved May 30, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 96-839 and supplemental report No. 96-839, pt. 2, both accompanying H.R. 6837 (Comm. on Interstate and Foreign Commerce) and No. 96-1041 (Comm. on Conference).

SENATE REPORTS: No. 96-614 (Comm. on Commerce, Science, and Transportation) and No. 96-677 accompanying S. 2156 (Comm of Commerce, Science, and Transportation).

CONGRESSIONAL RECORD, Vol. 126 (1980):

Mar. 6, considered and passed Senate.

Mar. 28, 31, H.R. 6837 considered and passed House; passage vacated and S. 2253, amended, passed in lieu.

May 8, S. 2156 considered and passed Senate.

May 22, House and Senate agreed to conference report on S. 2253.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 16, No. 22:

May 30, Presidential statement.

Public Law 96-255
96th Congress

An Act

May 30, 1980
[H.R. 6615]

To amend the National Ocean Pollution Research and Development and Monitoring Planning Act of 1978 to authorize appropriations to carry out the provisions of such Act for fiscal years 1981 and 1982, and for other purposes.

National Ocean Pollution Research and Development and Monitoring Planning Act of 1978, amendment.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 10 of the National Ocean Pollution Research and Development and Monitoring Planning Act of 1978, as amended (33 U.S.C. 1709), is amended—

(1) by striking out "and" after "1979,", and

(2) by striking out "1980." and inserting in lieu thereof "1980, not to exceed $3,000,000 for the fiscal year ending September 30, 1981, and not to exceed $4,000,000 for the fiscal year ending September 30, 1982.".

SEC. 2. Section 4(a) of the National Ocean Pollution Research and Development and Monitoring Planning Act of 1978 (33 U.S.C. 1703(a)) is amended by striking out "February" immediately after "submitted by" and inserting in lieu thereof "September".

Name change.
33 USC 1701 note.

SEC. 3. Section 1 of the National Ocean Pollution Research and Development and Monitoring Planning Act of 1978 is amended by striking out "Research and Development and Monitoring".

Approved May 30, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-893, Pt. 1 (Comm. on Merchant Marine and Fisheries) and No. 96-893, Pt. 2 (Comm. on Science and Technology).

SENATE REPORT No. 96-691 accompanying S. 2687 (Comm. on Commerce, Science, and Transportation).

CONGRESSIONAL RECORD, Vol. 126 (1980):

May 5, considered and passed House.

May 15, considered and passed Senate in lieu of S. 2687.

Public Law 96-256
96th Congress

An Act

To extend the present public debt limit through June 5, 1980.

May 30, 1980
[H.R. 7471]

Public debt limit, extension.
31 USC 757b note.
93 Stat. 589.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (a) of section 101 of the Act of September 29, 1979, entitled "An Act to provide for a temporary increase in the public debt limit, and to amend the Rules of the House of Representatives to make possible the establishment of the public debt limit in the future as a part of the congressional budget process" (Public Law 96-78) is amended by striking out "May 31, 1980" and inserting in lieu thereof "June 5, 1980".

Approved May 30, 1980.

LEGISLATIVE HISTORY:

CONGRESSIONAL RECORD, Vol. 126 (1980):
May 30, considered and passed House and Senate.

Public Law 96-257
96th Congress

An Act

May 31, 1980
[H.R. 6081]

To amend the Foreign Assistance Act of 1961 to authorize assistance in support of peaceful and democratic processes of development in Central America.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Special Central American Assistance Act of 1979".

Special Central American Assistance Act of 1979.
22 USC 2151 note.

SEC. 2. Chapter 4 of part II of the Foreign Assistance Act of 1961 is amended by adding at the end thereof the following new section:

22 USC 2346e.

"SEC. 536. CENTRAL AMERICAN ECONOMIC SUPPORT.—(a) The Congress finds that peaceful and democratic development in Central America is in the interest of the United States and of the community of American States generally, that the recent civil strife in Nicaragua has caused great human suffering and disruption to the economy of that country, and that substantial external assistance to Nicaragua is necessary to help alleviate that suffering and to promote economic recovery within a peaceful and democratic process. The Congress further finds that peaceful and democratic development in certain other Central American countries will be significantly assisted by additional economic support at this time.

Appropriation authorization.
22 USC 2346.

"(b) There are authorized to be appropriated to the President for use in carrying out section 531 for the purposes set forth in subsection (a) of this section, in addition to funds otherwise available for such purposes, $80,000,000 for the fiscal year 1980, which are authorized to remain available until expended.

Human rights violations.

"(c) In furnishing assistance under this chapter to the Government of Nicaragua, the President shall take into account the extent to which that Government has engaged in violations of the right to organize and operate labor unions free from political oppression, has engaged in or permitted violations of human rights, has engaged in violations of the right to freedom of the press, or has engaged in violations of the right to freedom of religion.

Presidential encouragement of human rights.

"(d) The President shall encourage the Government of Nicaragua to respect the right to freedom of the press, the right to organize and operate free labor unions, the right to freedom of religion, as well as all other fundamental human rights.

22 USC 2304.

"(e) The Congress reaffirms the requirement of section 502B(a)(1) of this Act that a principal goal of the foreign policy of the United States shall be to promote the increased observance of internationally recognized human rights by all countries. In furtherance of that goal, assistance to Nicaragua under this section shall be terminated, in accordance with sections 116 and 502B of this Act, if the Government of Nicaragua engages in a consistent pattern of gross violations of internationally recognized human rights.

22 USC 2151n.

Report to congressional committees.

"(f) The Secretary of State shall transmit to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate a report for each six-month period in which funds are expended for Nicaragua under the authorization contained in subsection (b) of this section. Each such report shall discuss fully and

completely the status of respect in Nicaragua for human rights, political pluralism, freedom of the press and assembly, freedom of religion, and freedom of labor to organize and bargain collectively.

Certification of nonterrorism; transmittal to the Speaker of the House and the Senate Committee on Foreign Relations.

"(g) The President shall transmit to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate, certification prior to releasing any assistance to the Government of Nicaragua under this chapter, that the Government of Nicaragua has not cooperated with or harbors any international terrorist organization or is aiding, abetting, or supporting acts of violence or terrorism in other countries. In the event that the President transmits such a certification, but at a later date he determines that the Government of Nicaragua cooperates with or harbors any international terrorist organization or is aiding, abetting, or supporting acts of violence or terrorism in other countries, the President shall terminate assistance to the Government of Nicaragua under this chapter and the outstanding balance of any loan to the Government of Nicaragua, or any of its agencies or instrumentalities, with funds authorized to be appropriated by this chapter shall become immediately due and payable.

U.S. support of OAS members against terrorism.

"(h) It is the sense of the Congress that the United States should support those traditionally faithful allies of the United States, including Guatemala, El Salvador, Costa Rica, Panama, Nicaragua, and Honduras, which are responsible members of the Organization of American States against terrorism and external subversion.

"(i) Funds made available under this chapter for the National School of Agriculture in Nicaragua shall be used under an understanding with the Autonomous National University of Nicaragua that the National School of Agriculture will cooperate in programs with United States institutions of higher education.

Loan funds, private sector use.

"(j) Any agreement between the United States and the Government of Nicaragua regarding the use of funds authorized to be appropriated under this chapter, which are to be made available in the form of loans, shall specifically require that at least 60 per centum of such loan funds, and any local currency generated in conjunction therewith, shall be used for assistance to the private sector. "Insofar as practicable, local currency used for assistance to the private sector in Nicaragua shall, consistent with the accomplishment of the purposes set forth in subsection (a) of this section, be used in ways which will strengthen private financial institutions which will help keep the private sector in Nicaragua financially independent."

Local currency loan programs.

"Local currency loan programs in Nicaragua shall be monitored and audited in accordance with section 624(g) of the Foreign Assistance Act. The President shall report on the implementation of this provision in the report required under subsection (e) of this section.".

22 USC 2384.

Assistance termination, conditions.

"(k) The President shall terminate assistance to the Government of Nicaragua under this chapter if he determines and reports to the Congress that Soviet, Cuban, or other foreign combat military forces are stationed or situated within the borders of Nicaragua and that the presence of such forces constitutes a threat to the national security of the United States or to any Latin American ally of the United States.

Free, open elections.

"(k) The President shall terminate assistance to Nicaragua under this section if he determines that the Government of Nicaragua has engaged in a consistent pattern of violations of the right to organize and operate labor unions free from political oppression.".

"(k) The President shall encourage the holding of free, open elections in Nicaragua within a reasonable period of time and shall,

in providing any additional assistance to Nicaragua, take into consideration the progress which is being made toward holding such elections.".

"(k) None of the funds authorized under this chapter may be used for assistance for any school or other educational instrumentality or facility which would house, employ or be made available to Cuban personnel."

"(k) The President shall terminate assistance under this chapter if he determines that the Government of Nicaragua engages in systematic violations of free speech and press."

Loan funds, U.S. goods or services purchase.

"(k) Any agreement between the United States and the Government of Nicaragua regarding the use of funds authorized to be appropriated under this chapter, made available in the form of loans, shall specifically require that such loan funds shall be used for the purchase of goods or services of U.S. origin.".

"(k) Up to one per centum of the funds made available to Nicaragua from amounts authorized in subsection (b) shall be used to make publicly known to the people of Nicaragua the extent of U.S. aid programs to them. The President shall periodically report to the Congress on the effectiveness of his efforts to carry out this subsection."

Report to Congress.

Approved May 31, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-713 (Comm. on Foreign Affairs).
SENATE REPORT No. 96-522 accompanying S. 2012 (Comm. on Foreign Relations).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Jan. 29, S. 2012 considered and passed Senate.
Feb. 22, 25-27, considered and passed House.
May 19, considered and passed Senate.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 16, No. 23:
May 31, Presidential statement.

Public Law 96-258
96th Congress

An Act

To amend subtitle IV of title 49, United States Code, to codify recent law and improve the Code without substantive change.

June 3, 1980
[H.R. 3807]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Interstate Commerce Act, amendment.

AMENDMENTS TO SUBTITLE IV OF TITLE 49

SECTION 1. Title 49, United States Code, is amended as follows:

(1) Section 10324(c) is amended to read as follows: 49 USC 10324.

"(c)(1) An action of the Commission is enforceable unless the Commission stays or postpones the action.

"(2) The Commission shall stay or postpone a decision made by a division, an individual Commissioner, a board, or an employee if an application for rehearing, reargument, or reconsideration is made under section 10323 of this title before the decision becomes effective. The stay or postponement is effective until the Commission or appellate division disposes of the matter.". 49 USC 10323.

(2) Section 10327(k)(1) is amended by striking out "at least 7" and substituting "a majority of the". 49 USC 10327.

(3) Section 10382(a) is amended— 49 USC 10382.

(A) by redesignating clauses (5) and (6) as (6) and (7), respectively;

(B) by inserting the following new clause immediately below clause (4):

"(5) shall present the views of users, the general public, affected communities, and, when appropriate, providers of rail transportation in proceedings of departments, agencies, and instrumentalities of the United States Government related to—

"(A) the impact of energy proposals and actions on rail transportation; and

"(B) whether transportation policy is consistent with the energy policies of the United States Government;"; and

(C) by striking out "clauses (1)–(4)" in clause (6), as redesignated, and substituting "clauses (1)–(5)".

(4) The first sentence of section 10525(d) is amended by striking out "is, or is likely" and substituting "affects or impairs, or is likely". 49 USC 10525.

(5) Section 10526(a) is amended— 49 USC 10526.

(A) by striking out "is" in clause (2);

(B) by striking out "or" in clause (8);

(C) by striking out the period in clause (9) and substituting a semicolon and "or"; and

(D) by inserting the following new clause immediately below clause (9):

"(10) a motor vehicle carrying not more than 15 individuals in a single, daily roundtrip to commute to and from work.".

(6) Section 10544(d)(1) is amended by inserting "or the District of Columbia," immediately after "States". 49 USC 10544.

49 USC 10706.

(7) Section 10706(c)(2) is amended by striking out the period after "section" and substituting a dash.

49 USC 10784.

(8) Section 10784(a) is amended—

(A) by striking out "thereafter correct, revise, and supplement that valuation, including previous inventories and classifications, by keeping" and substituting "keep"; and

(B) by adding at the end thereof the following new sentence: "When necessary, the Commission may correct, revise, and supplement an inventory or valuation of property it has made.".

49 USC 10923.

(9) Section 10923(b)(2) is amended—

(A) by striking out "and" in clause (C);

(B) by striking out ", and the changing character of the requirements of those shippers." in clause (D) and substituting a semicolon and "and"; and

(C) by inserting the following new clause immediately below clause (D):

"(E) the changing character of the requirements of those shippers.".

49 USC 11101.

(10) Section 11101(c) is amended—

(A) in clause (1)(A) by inserting "(i)" before "a farmer", and by striking out "or a motor private carrier;" and substituting a comma and "or (ii)";

(B) in clause (1)(B) by striking out "(B)" and substituting "a motor private carrier and it" as a flush phrase after "or (ii)" in clause (1)(A), and by striking out "(i)" and "(ii)";

(C) in clause (1)(C) by striking out "(C)" and substituting "(B)"; and

(D) in clause (2) by striking out "(1)(C)" and substituting "(1)(B)".

49 USC 11121.

Rail carrier car service.

49 USC 10501.

(11) Section 11121(a) is amended to read as follows:

"(a)(1) A rail carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title shall furnish safe and adequate car service and establish, observe, and enforce reasonable rules and practices on car service. The Commission may require a rail carrier to provide facilities and equipment that are reasonably necessary to furnish safe and adequate car service if the Commission decides that the rail carrier has materially failed to furnish that service. The Commission may begin a proceeding under this paragraph when an interested person files an application with it. The Commission may act only after a hearing on the record and an affirmative finding, based on the evidence presented, that—

Hearing.

"(A) providing the facilities or equipment will not materially and adversely affect the ability of the carrier to provide safe and adequate transportation;

"(B) the amount spent for the facilities or equipment, including a return equal to the carrier's current cost of capital, will be recovered; and

"(C) providing the facilities or equipment will not impair the ability of the carrier to attract adequate capital.

"(2) The Commission may require a rail carrier to—

"(A) file its car service rules with the Commission; and

"(B) incorporate those rules in its tariffs.".

49 USC 11304.

(12) Section 11304(a)(2) is amended—

(A) by striking out "bankruptcy from" and substituting "a case under title 11 from"; and

11 USC 101.

(B) by striking out "bankruptcy," and substituting "that case,".

(13)(A) Subchapter III of chapter 113 is amended by adding at the end thereof the following new section:

49 USC 11351.

"§ 11351. Supplemental orders

"When cause exists, the Interstate Commerce Commission may make appropriate orders supplemental to an order made in a proceeding under sections 11342–11345 and 11347 of this title.".

49 USC 11342–11345, 11347.

(B) The analysis of chapter 113 is amended by inserting immediately below item 11350 the following new item:

"11351. Supplemental orders.".

(C) Section 11912 is amended by striking out "or 11347" and substituting "11347, or 11351".

49 USC 11912.

(14) Section 11707(e) is amended by striking out "that person receives written notice from the carrier that it" and substituting "the carrier gives a person written notice that the carrier".

49 USC 11707.

(15) Section 11909(a) is amended by striking out "multilates" and substituting "mutilates".

49 USC 11909.

(16) The last sentence of section 11914(c) is amended by striking out "Venue" and "was" and substituting "Trial" and "is", respectively.

49 USC 11914.

LEGISLATIVE PURPOSE AND CONSTRUCTION

SEC. 2. (a) Section 1 of this Act restates, without substantive change, laws enacted before April 24, 1979, that were replaced by that section. That section may not be construed as making a substantive change in the laws replaced. Laws enacted after April 23, 1979, that are inconsistent with this Act are considered as superseding it to the extent of the inconsistency.

49 USC prec. 10101 note.

(b) A reference to a law replaced by section 1 of this Act, including a reference in a regulation, order, or other law, is deemed to refer to the corresponding provision enacted by this Act.

(c) An order, rule, or regulation in effect under a law replaced by section 1 of this Act continues in effect under the corresponding provision enacted by this Act until repealed, amended, or superseded.

(d) An action taken or an offense committed under a law replaced by section 1 of this Act is deemed to have been taken or committed under the corresponding provision enacted by this Act.

(e) An inference of a legislative construction is not to be drawn by reason of the location in the United States Code of a provision enacted by this Act or by reason of the caption or catchline thereof.

(f) If a provision enacted by this Act is held invalid, all valid provisions that are severable from the invalid provision remain in effect. If a provision of this Act is held invalid in any of its applications, the provision remains valid for all valid applications that are severable from any of the invalid applications.

Savings provision.

REPEALS

SEC. 3. (a) The repeal of a law by this Act may not be construed as a legislative inference that the provision was or was not in effect before its repeal.

49 USC prec. 10101 note.

(b) The laws specified in the following schedule are repealed except for rights and duties that matured, penalties that were incurred, and proceedings that were begun before the date of enactment of this Act:

Statutes at Large

Date	Chapter or Public Law	Section	Statutes at Large	
			Volume	Page
1887				
Feb. 4	104	1(14)(b), 15(8) (c), (d), 20c, 27(4)(f), 203(b)(7b).	24	
1976				
Feb. 5	94-210	202(e)(2) "Sec. 15(8) (c), (d)"	90	37.
1978				
Nov. 6	95-598	337	92	2680.
	95-599	126(c)	92	2706.
8	95-607	401-402	92	3067.
	95-611	5	92	3090.
9	95-620	804	92	3348.

49 USC 15 note. 24 Stat. 384. 49 USC 15. 49 USC 15. 49 USC 10525 note. 49 USC 11304 note. 49 USC 20c, 313, 922a.

(c) The repeals, by subsection (b) of this section, of section 15(8) (c) and (d) of the Act of February 4, 1887 (ch. 104, 24 Stat. 379), and section 401 of the Act of November 8, 1978 (Public Law 95-607, 92 Stat. 3067), are effective July 1, 1980.

(d) The amendments made by section 1 (4), (5)(A), (6), (7), (8), (9), (10), (13), (14), (15), and (16) of this Act are effective October 17, 1978.

(e) The amendment made by section 1(12) of this Act and the repeal, by subsection (b) of this section, of section 337 of the Act of November 6, 1978 (Public Law 95-598, 92 Stat. 2680), are effective on the date of enactment of this Act or on October 1, 1979, whichever is later.

Approved June 3, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-332 (Comm. on the Judiciary).
CONGRESSIONAL RECORD:
Vol. 125 (1979): July 23, considered and passed House.
Vol. 126 (1980): May 13, considered and passed Senate, amended.
May 20, House concurred in Senate amendments.

Public Law 96-259
96th Congress

An Act

To provide for increased participation by the United States in the Inter-American Development Bank, the Asian Development Bank, and the African Development Fund.

June 3, 1980
[S. 662]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Inter-American, Asian, and African Development Banks and Fund, increased U.S. participation.

TITLE I—INTER-AMERICAN DEVELOPMENT BANK

SEC. 101. The Inter-American Development Bank Act (22 U.S.C. 283 et seq.) is amended—

22 USC 283z.

(1) by redesignating section 29 as section 28; and

(2) by adding at the end thereof the following new section:

Authorized capital stock increase.
22 USC 283z-1.

"SEC. 29. (a) The United States Governor of the Bank is authorized to vote for two resolutions which were proposed by the Governors at a special meeting in December 1978 and are pending before the Board of Governors of the Bank. These resolutions provide for (1) an increase in the authorized capital stock of the Bank and additional subscriptions thereto, and (2) an increase in the resources of the Fund for Special Operations and contributions thereto. Upon adoption of these resolutions, the United States Governor is authorized on behalf of the United States (A) to subscribe to two hundred twenty-seven thousand eight hundred and ninety-six shares of the increase in the authorized capital stock of the Bank, of which two hundred ten thousand eight hundred and four shall be callable and seventeen thousand and ninety-two shall be paid-in, and (B) to contribute to the Fund for Special Operations $630,000,000; except that any commitment to make such subscriptions to paid-in and callable capital stock and to make such contributions to the Fund for Special Operations shall be effective only to such extent or in such amounts as are provided in advance in appropriation Acts.

Appropriation authorization.

"(b) In order to pay for the increase in the United States subscription and contribution provided for in this section, there are authorized to be appropriated, without fiscal year limitation, for payment by the Secretary of the Treasury (1) $2,474,287,189 for the United States subscription to the capital stock of the Bank, and (2) $630,000,000 for the United States share of the increase in the resources of the Fund for Special Operations.

U.S. cost, minimization.

"(c) For the purpose of keeping to a minimum the cost to the United States, the Secretary of the Treasury—

"(1) shall pay the United States contribution to the Fund for Special Operations authorized by this section by letter of credit in four annual installments; and

"(2) shall take the steps necessary to obtain a certification from the Bank that any undisbursed balances resulting from drawdowns on such letter of credit will not exceed at any time the United States share of expected disbursement requirements for the following three-month period.

Funds, limitation.

"(d) None of the funds authorized to be appropriated by this section may be used for any form of assistance to any country which is not a member of the Bank.".

Energy and mineral exploration, Presidential report to Congress. 22 USC 283 note.

SEC. 102. The President shall evaluate a proposal for joint action by the countries of the Western Hemisphere and other countries which participate in the Inter-American Development Bank to increase exploration for and exploitation of energy and mineral resources of the Western Hemisphere through multilateral incentives, administered by the Inter-American Development Bank, to private investment in such resources. The President shall report his findings to the Congress not later than September 30, 1980, together with such recommendations as he considers appropriate.

TITLE II—ASIAN DEVELOPMENT BANK

SEC. 201. The Asian Development Bank Act (22 U.S.C. 285 et seq.) is amended by adding at the end thereof the following new sections:

Asian Development Fund, U.S. contribution. 22 USC 285u.

"SEC. 24. (a) The United States Governor of the Bank is authorized to contribute on behalf of the United States $378,250,000 to the Asian Development Fund, a special fund of the Bank, except that any commitment to make such contribution shall be made subject to obtaining the necessary appropriations.

Appropriation authorization.

"(b) In order to pay for the United States contribution to the Asian Development Fund provided for in this section, there are authorized to be appropriated, without fiscal year limitation, $378,250,000 for payment by the Secretary of the Treasury.

U.S. cost, minimization.

"(c) For the purpose of keeping to a minimum the cost to the United States, the Secretary of the Treasury—

"(1) shall pay the United States contribution to the Asian Development Fund authorized by this section by letter of credit in four annual installments; and

"(2) shall take the steps necessary to obtain a certification from the Bank that any undisbursed balances resulting from drawdowns on such letter of credit will not exceed at any time the United States share of expected disbursement requirements for the following three-month period.

Taiwan, Bank membership. 22 USC 285v.

"SEC. 25. It is the sense of the Congress that it is the policy of the United States that Taiwan (before January 1, 1979, known as the Republic of China) shall be permitted to retain membership in the Asian Development Bank and that the United States Executive Director of the Bank shall notify the Bank that a serious review of future United States participation, including any future payments to the Asian Development Fund, would ensue if Taiwan were expelled from the Bank.".

TITLE III—AFRICAN DEVELOPMENT FUND

SEC. 301. The African Development Fund Act (22 U.S.C. 290g et seq.) is amended—

22 USC 290g-10.

(1) by redesignating section 212 as section 211; and

(2) by adding at the end thereof the following new section:

U.S. contribution. 22 USC 290g-11.

"SEC. 212. (a) The United States Governor of the Fund is authorized to contribute on behalf of the United States $125,000,000 to the Fund as the United States contribution to the second replenishment of the resources of the Fund, except that any commitment to make such

contribution shall be made subject to obtaining the necessary appropriations.

"(b) In order to pay for the United States contribution provided for in this section, there is authorized to be appropriated, without fiscal year limitation, $125,000,000 for payment by the Secretary of the Treasury. Appropriation authorization.

"(c) For the purpose of keeping to a minimum the cost to the United States, the Secretary of the Treasury— U.S. cost, minimization.

"(1) shall pay the United States contribution to the African Development Fund authorized by this section by letter of credit in three annual installments; and

"(2) shall take the steps necessary to obtain a certification from the Fund that any undisbursed balances resulting from drawdowns on such letter of credit will not exceed at any time the United States share of expected disbursement requirements for the following three-month period.".

TITLE IV—EXPORT OPPORTUNITY ENHANCEMENT

SEC. 401. The Secretary of the Treasury shall instruct the United States Executive Directors of the Inter-American Development Bank, the Asian Development Bank, and the African Development Fund to take all possible steps to assure that information relative to potential procurement opportunities for United States firms is expeditiously communicated to the Secretary of the Treasury, the Secretary of State, and the Secretary of Commerce. Such information shall be disseminated as broadly as possible to both large and small business. 22 USC 262i.

TITLE V—HUMAN RIGHTS REPORTING

SEC. 501. (a) Section 701 of the Act of October 3, 1977 (Public Law 95-118; 22 U.S.C. 262g), is amended in subsection (c)— 22 USC 262d.

(1) by inserting "(1)" immediately after "(c)"; and

(2) by adding at the end thereof the following new paragraph:

"(2)(A) The Secretary of the Treasury shall report quarterly on all loans considered by the Boards of Executive Directors of the institutions listed in subsection (a) to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate. Each such quarterly report shall include a list of all loans considered by the Boards of Executive Directors of such institutions and shall specify with respect to each such loan—

"(i) the institution involved;

"(ii) the date of final action;

"(iii) the borrower;

"(iv) the amount;

"(v) the project or program;

"(vi) the vote of the United States Government;

"(vii) the reason for United States Government opposition, if any;

"(viii) the final disposition of the loan; and

"(ix) if the United States Government opposed the loan, whether the loan meets basic human needs.

"(B) The information required to be reported under subparagraph (A) also shall be included in the annual report to the Congress of the National Advisory Council on International Monetary and Financial Policies.".

(b) Such section is further amended by adding at the end thereof the following new subsection:

"(g)(1) The Secretary of the Treasury, in consultation with the Secretary of State, shall report quarterly to the chairmen and ranking minority members of the Committee on Banking, Finance and Urban Affairs of the House of Representatives, the Subcommittee on International Development Institutions and Finance of such Committee, and the Committee on Foreign Relations of the Senate, in each instance in which the United States Executive Director of an institution listed in subsection (a) opposes any loan, financial assistance, or technical assistance for reasons regarding human rights. Each such report shall include—

"(A) the reasons for such opposition;

"(B) all policy considerations taken into account in reaching the decision to oppose such loan, financial assistance, or technical assistance;

"(C) a description of the human rights conditions in the country involved;

"(D) a record of how the United States Government voted on all other loans, financial assistance, and technical assistance to such country during the preceding two years; and

"(E) information as to how the decision to oppose such loan, financial assistance, or technical assistance relates to overall United States Government policy on human rights in such country.

"(2) The Secretary of the Treasury or his delegate shall consult frequently and in a timely manner with the chairmen and ranking minority members specified in paragraph (1) to inform them regarding any prospective changes in policy direction toward countries which have or recently have had poor human rights records.".

22 USC 262d.

(c) Title VII of the Act of October 3, 1977, is amended by adding at the end thereof the following new section:

22 USC 262d note.

"SEC. 705. The President shall direct the United States Governor of the International Bank for Reconstruction and Development, the United States Governor of the International Finance Corporation, the United States Governor of the International Development Association, the United States Governor of the Inter-American Development Bank, the United States Governor of the Asian Development Bank, and the United States Governor of the African Development Fund, to consult with the other Governors of those institutions concerning adoption of an amendment to the Articles of Agreement of their respective institutions to establish human rights standards to be considered in connection with each application for assistance.".

TITLE VI—USE OF RENEWABLE RESOURCES FOR ENERGY PRODUCTION

22 USC 262j note.

SEC. 601. The Congress finds that—

(1) without an adequate supply of energy at affordable prices the world's poor will continue to be deprived of jobs, food, water, shelter, and clothing, and poor countries will continue to be economically and politically unstable;

(2) dependence on increasingly expensive fossil fuel resources consumes too much of the capital available to poor countries with the result that funds are not available to meet the basic needs of poor people;

(3) in many developing countries the cost of large central generators and long distance electrical distribution makes it unlikely that rural energy by means of a national grid will contribute to meeting the needs of poor people;

(4) only one of eight rural inhabitants lives in an area which has access to electricity and even fewer rural inhabitants actually have or can afford electricity;

(5) wood, animal and agricultural waste, and other "noncommercial" fuels still supply about half the total energy in developing countries and all but a seventh in rural sectors;

(6) growing dependence of the world's poor on wood for heating and cooking has forced the overcutting of forests and as a consequence erosion and loss of available agricultural land; and

(7) recent initiatives by the international financial institutions to develop and utilize decentralized solar, hydro, biomass, geothermal, and wind energy should be significantly expanded to make renewable energy resources increasingly available to the world's poor on a wide scale.

22 USC 262j.

SEC. 602. (a) The United States Government, in connection with its voice and vote in the Inter-American Development Bank, the African Development Fund, and the Asian Development Bank, shall encourage such institutions—

(1) to promote the decentralized production of renewable energy;

(2) to identify renewable resources to produce energy in rural development projects and determine the feasibility of substituting them for systems using fossil fuel;

(3) to train personnel in developing technologies for getting energy from renewable resources;

(4) to support research into the use of renewable resources, including hydropower, biomass, solar photovoltaic, and solar thermal;

(5) to support an information network to make available to policymakers the full range of energy choices;

(6) to broaden their energy planning, analyses, and assessments to include consideration of the supply of, demand for, and possible uses of renewable resources; and

(7) to coordinate with the Agency for International Development and other aid organizations in supporting effective rural energy programs.

"Renewable resource."

(b) For purposes of this section, the term "renewable resource" means any energy resource which—

(1) meets the needs of rural communities;

(2) saves capital without wasting labor;

(3) is modest in scale and simple to install and maintain and which can be managed by local individuals;

(4) is acceptable and affordable; and

(5) does not damage the environment.

Report to Congress.

(c) The Secretary of the Treasury, in consultation with the Director of the United States International Development Cooperation Agency, shall report to the Congress not later than six months after the date of enactment of this Act and annually thereafter on the progress toward achieving the goals set forth in this title.

Approved June 3, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 96-135 accompanying H.R. 3829 (Comm. on Banking, Finance and Urban Affairs) and Nos. 96-837, 96-867, and 96-974 (all from Comm. of Conference).

SENATE REPORT No. 96-135 (Comm. on Foreign Relations).

CONGRESSIONAL RECORD:

Vol. 125 (1979): May 17, considered and passed Senate.

Vol. 126 (1980): Mar. 5, 6, H.R. 3829 considered and passed House; passage vacated and S. 662, amended, passed in lieu.

Mar. 25, Apr. 17, House recommitted conference report on S. 662.

May 21, House agreed to conference report.

May 22, Senate agreed to conference report.

Public Law 96-260
96th Congress

An Act

To authorize the Secretary of Commerce to sell two obsolete vessels to Coast Line Company and for other purposes.

June 3, 1980
[H.R. 4088]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, (a) Notwithstanding any other provisions of law, the Secretary of Commerce is authorized, within two years after the date of enactment of this Act (A) to sell, subject to such conditions as he deems are appropriate in the national interest, the five obsolete vessels, Arcturus, Hyades, Pictor, Procyon, and Zelima, for the purpose of conversion and operation in the fisheries of the United States, and the two obsolete vessels, Private George Peters and Resolute, for the purpose of conversion and operation in the fisheries or the domestic commerce of the United States, after due advertisement and upon competitive bids, to the highest bidder: *Provided,* That the Secretary shall not sell the vessels for less than their scrap value in the domestic market, and (B) to allow obsolete vessels previously sold from the reserve fleet to be converted and operated in the fisheries of the United States: *Provided,* That (1) any conversion work shall be performed in the United States; (2) the vessels shall be documented and operated under the laws of the United States; (3) if the vessels are scrapped, they shall be scrapped in the domestic market; and (4) purchasers must be citizens of the United States as defined in section 2 of the Shipping Act of 1916, as amended (46 U.S.C. 802).

Obsolete vessels, sale.

(b) That the Act entitled "An Act to authorize the employment of certain foreign citizens on the vessel Seafreeze Atlantic, Official Number 517242", approved December 15, 1975 (Public Law 94-150, 89 Stat. 807. 46 USC 1405 note.), is amended—

Seafreeze Atlantic, name change.

(1) by striking out "Seafreeze Atlantic, Official Number 517242 (hereafter referred to in this Act as the 'Seafreeze Atlantic')," in the first section and inserting in lieu thereof "Arctic Trawler, formerly the Seafreeze Atlantic, Official Number 517242 (hereafter referred to in this Act as the 'Arctic Trawler')";

Arctic Trawler, designation.

(2) by striking out "Seafreeze Atlantic" each place it appears in sections 2, 3, and 4 and inserting in lieu thereof "Arctic Trawler"; and

46 USC 1405 note.

(3) by striking out "four-year period" each place it appears in sections 2 and 3 and inserting in lieu thereof "six-year period".

Approved June 3, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-846 (Comm. on Merchant Marine and Fisheries).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Mar. 24, considered and passed House.
Apr. 2, considered and passed Senate, amended.
May 15, House concurred in Senate amendment with amendments.
May 20, Senate concurred in House amendments.

Public Law 96-261
96th Congress

Joint Resolution

June 4, 1980
[H.J. Res. 554]

Making an appropriation for the Federal Trade Commission for the fiscal year ending September 30, 1980.

Federal Trade Commission. Supplemental appropriation.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sum is appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1980, namely:

FEDERAL TRADE COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Trade Commission, including uniforms or allowances therefor, as authorized by 5 U.S.C. 5901-5902; services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles; and not to exceed $1,500 for official reception and representation expenses; $49,700,000.

Approved June 4, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1054 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 126 (1980):
May 30, considered and passed House.
June 3, considered and passed Senate.

Public Law 96-262
96th Congress

An Act

To authorize appropriations for the Commercial Fisheries Research and Development Act of 1964 for fiscal years 1981, 1982, and 1983.

June 5, 1980
[H.R. 4890]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 4 of the Commercial Fisheries Research and Development Act of 1964 (16 U.S.C. 779b) is amended—

Commercial Fisheries Research and Development Act of 1964, amendments.

(1) by amending subsection (a) by striking out "and September 30, 1980." in paragraph (2) and inserting in lieu thereof "; September 30, 1980, September 30, 1981, September 30, 1982, and September 30, 1983.";

(2) by amending subsection (b)—

(A) by striking out "and" at the end of paragraph (1),

(B) by inserting ", and" immediately after "1980" in paragraph (2), and

(C) by adding immediately after paragraph (2) the following new paragraph:

"(3) $5,000,000 for each of the fiscal years ending September 30, 1981, September 30, 1982, and September 30, 1983"; and

(3) by amending paragraph (2) of subsection (c) by striking out "and September 30, 1980." and inserting in lieu thereof "September 30, 1980, September 30, 1981, September 30, 1982, and September 30, 1983.".

Approved June 5, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-889 (Comm. on Merchant Marine and Fisheries).
SENATE REPORT No. 96-722 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD, Vol. 126 (1980):
May 5, considered and passed House.
May 22, considered and passed Senate.

Public Law 96-263
96th Congress

An Act

June 6, 1980
[H.R. 3789]

To amend section 16(b) of the Soil Conservation and Domestic Allotment Act, as amended, providing for a Great Plains conservation program.

Soil Conservation and Domestic Allotment Act, amendments.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 16(b) of the Soil Conservation and Domestic Allotment Act (70 Stat. 1115, as amended; 16 U.S.C. 590p(b)) is amended—

(1) by deleting the third and fourth sentences of paragraph (1) thereof beginning with "Such contracts may be entered into . . ." and inserting in lieu thereof the following: "Such contracts may be entered into during the period ending not later than September 30, 1991, with respect to farms, ranches, and other lands in counties in the Great Plains area of the States of Colorado, Kansas, Montana, Nebraska, New Mexico, North Dakota, Oklahoma, South Dakota, Texas, and Wyoming, designated by the Secretary as susceptible to serious wind or water erosion by reason of their soil types, terrain, and climatic, soil, topographic, flood, saline, other natural hazards, and other factors. The landowner or operator shall furnish to the Secretary a plan of farming operations or land use which incorporates such soil and water conservation practices and principles as may be determined by him to be practicable for maximum mitigation of climatic, soil, topographic, flood, saline, and other natural hazards of the area in which such land is located, and which outlines a schedule of proposed changes in cropping systems or land use and of the conservation measures which are to be carried out on the farm, ranch, or other land during the contract period to protect the farm, ranch, or other land from erosion and deterioration by natural causes."; and

(2) deleting "$300,000,000" and "$25,000,000" in the proviso in paragraph (7) and inserting in lieu thereof "$600,000,000" and "$50,000,000", respectively.

Effective date. 16 USC 590p note.

SEC. 2. This Act shall become effective October 1, 1980.

Approved June 6, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-755 (Comm. on Agriculture).
SENATE REPORT No. 96-648 (Comm. on Agriculture, Nutrition, and Forestry).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Feb. 21, considered and passed House.
May 22, considered and passed Senate.

Public Law 96-264
96th Congress

An Act

To extend the present public debt limit through June 30, 1980.

June 6, 1980
[H.R. 7428]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (a) of section 101 of the Act of September 29, 1979, entitled "An Act to provide for a temporary increase in the public debt limit, and to amend the Rules of the House of Representatives to make possible the establishment of the public debt limit in the future as a part of the congressional budget process" (Public Law 96-78) is amended by striking out "June 5, 1980" and inserting in lieu thereof "June 30, 1980".

Public debt limit, temporary increase; oil import fee, termination.
31 USC 757b note.
93 Stat. 589; *Ante*, p. 421.

SEC. 2. TERMINATION OF APRIL 2, 1980, OIL IMPORT FEE.

Notwithstanding any other provision of law, the action taken by the President under section 232(b) of the Trade Expansion Act of 1962 (19 U.S.C. 1862(b)) with respect to petroleum imports under Proclamation 4744, dated April 2, 1980, as amended, shall cease to have force and effect upon the date of the enactment of this Act.

19 USC 1862 note.

45 FR 22864.

THOMAS P. O'NEILL, JR.
Speaker of the House of Representatives.

WARREN G. MAGNUSON
President of the Senate pro Tempore.

IN THE HOUSE OF REPRESENTATIVES, U.S.,
June 5, 1980.

The House of Representatives having proceeded to reconsider the bill (H.R. 7428) entitled "An Act to extend the present public debt limit through June 30, 1980", returned by the President of the United States with his objections, to the House of Representatives, in which it originated, it was

Resolved, That the said bill pass, two-thirds of the House of Representatives agreeing to pass the same.

EDMUND L. HENSHAW, JR.
Clerk.

By Thomas E. Ladd
Assistant to the Clerk.

I certify that this Act originated in the House of Representatives.

EDMUND L. HENSHAW, JR.
Clerk.

By Thomas E. Ladd
Assistant to the Clerk.

READEX FICHE best copy available

IN THE SENATE OF THE UNITED STATES,
June 6 (legislative day, January 3), 1980.

The Senate having proceeded to reconsider the bill (H.R. 7428) entitled "An Act to extend the present public debt limit through June 30, 1980", returned by the President of the United States with his objections, to the House of Representatives, in which it originated, and passed by the House of Representatives on reconsideration of the same, it was

Resolved, That the said bill pass, two-thirds of the Senators present having voted in the affirmative.

Attest:

J. S. KIMMITT
Secretary.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1049 (Comm. on Ways and Means).
CONGRESSIONAL RECORD, Vol. 126 (1980):
June 4, considered and passed House; considered and passed Senate, amended.
June 5, House concurred in Senate amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 16, No. 23:
June 5, vetoed; Presidential message.
CONGRESSIONAL RECORD, Vol. 126 (1980):
June 5, House overrode veto.
June 6, Senate overrode veto.

Public Law 96-265
96th Congress

An Act

June 9, 1980
[H.R. 3236]

To amend the Social Security Act to provide better work incentives and improved accountability in the disability programs, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Social Security Disability Amendments of 1980".

Social Security Disability Amendments of 1980.
42 USC 1305 note.

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TITLE I—PROVISIONS RELATING TO DISABILITY BENEFITS UNDER OASDI PROGRAM

LIMITATION ON TOTAL FAMILY BENEFITS IN DISABILITY CASES

42 USC 403.

SEC. 101. (a) Section 203(a) of the Social Security Act is amended—

(1) by striking out "except as provided by paragraph (3)" in paragraph (1) (in the matter preceding subparagraph (A)) and inserting in lieu thereof "except as provided by paragraphs (3) and (6)";

(2) by redesignating paragraphs (6), (7), and (8) as paragraphs (7), (8), and (9), respectively; and

(3) by inserting after paragraph (5) the following new paragraph:

"(6) Notwithstanding any of the preceding provisions of this subsection other than paragraphs (3)(A), (3)(C), and (5) (but subject to section 215(i)(2)(A)(ii)), the total monthly benefits to which beneficiaries may be entitled under sections 202 and 223 for any month on the basis of the wages and self-employment income of an individual entitled to disability insurance benefits, whether or not such total benefits are otherwise subject to reduction under this subsection but after any reduction under this subsection which would otherwise be applicable, shall be, reduced or further reduced (before the application of section 224) to the smaller of—

42 USC 415.
42 USC 402, 423.
42 USC 424a.

"(A) 85 percent of such individual's average indexed monthly earnings (or 100 percent of his primary insurance amount, if larger), or

"(B) 150 percent of such individual's primary insurance amount.".

42 USC 403.

(b)(1) Section 203(a)(2)(D) of such Act is amended by striking out "paragraph (7)" and inserting in lieu thereof "paragraph (8)".

(2) Section 203(a)(8) of such Act, as redesignated by subsection (a)(2) of this section, is amended by striking out "paragraph (6)" and inserting in lieu thereof "paragraph (7)".

42 USC 415.

(3) Section 215(i)(2)(A)(ii)(III) of such Act is amended by striking out "section 203(a) (6) and (7)" and inserting in lieu thereof "section 203(a) (7) and (8)".

(4) Section 215(i)(2)(D) of such Act is amended by adding at the end thereof the following new sentence: "Notwithstanding the preceding sentence, such revision of maximum family benefits shall be subject to paragraph (6) of section 203(a) (as added by section 101(a)(3) of the Social Security Disability Amendments of 1980).".

Supra.

(c) The amendments made by this section shall apply only with respect to monthly benefits payable on the basis of the wages and self-employment income of an individual who first becomes eligible for benefits (determined under sections 215(a)(3)(B) and 215(a)(2)(A) of the Social Security Act, as applied for this purpose) after 1978, and who first becomes entitled to disability insurance benefits after June 30, 1980. 42 USC 403 note. 42 USC 415.

REDUCTION IN NUMBER OF DROPOUT YEARS FOR YOUNGER DISABLED WORKERS

SEC. 102. (a) Section 215(b)(2)(A) of the Social Security Act is amended to read as follows: 42 USC 415.

"(2)(A) The number of an individual's benefit computation years equals the number of elapsed years reduced—

"(i) in the case of an individual who is entitled to old-age insurance benefits (except as provided in the second sentence of this subparagraph), or who has died, by 5 years, and

"(ii) in the case of an individual who is entitled to disability insurance benefits, by the number of years equal to one-fifth of such individual's elapsed years (disregarding any resulting fractional part of a year), but not by more than 5 years.

Clause (ii), once applicable with respect to any individual, shall continue to apply for purposes of determining such individual's primary insurance amount for purposes of any subsequent eligibility for disability or old-age insurance benefits unless prior to the month in which such eligibility begins there occurs a period of at least 12 consecutive months for which he was not entitled to a disability or an old-age insurance benefit. If an individual described in clause (ii) is living with a child (of such individual or his or her spouse) under the age of 3 in any calendar year which is included in such individual's computation base years, but which is not disregarded pursuant to clause (ii) or to subparagraph (B) (in determining such individual's benefit computation years) by reason of the reduction in the number of such individual's elapsed years under clause (ii), the number by which such elapsed years are reduced under this subparagraph pursuant to clause (ii) shall be increased by one (up to a combined total not exceeding 3) for each such calendar year; except that (I) no calendar year shall be disregarded by reason of this sentence (in determining such individual's benefit computation years) unless the individual was living with such child substantially throughout the period in which the child was alive and under the age of 3 in such year and the individual had no earnings as described in section 203(f)(5) in such year, (II) the particular calendar years to be disregarded under this sentence (in determining such benefit computation years) shall be those years (not otherwise disregarded under clause (ii)) which, before the application of section 215(f), meet the conditions of subclause (I), and (III) this sentence shall apply only to the extent that its application would not result in a lower primary insurance amount. The number of an individual's benefit computation years as determined under this subparagraph shall in no case be less than 2.". 42 USC 403.

(b) Section 223(a)(2) of such Act is amended by inserting "and section 215(b)(2)(A)(ii)" after "section 202(q)" in the first sentence. 42 USC 423. 42 USC 415, 402.

(c) The amendments made by this section shall apply only with respect to monthly benefits payable on the basis of the wages and self-employment income of an individual who first becomes entitled to disability insurance benefits on or after July 1, 1980; except that the 42 USC 415 note.

Ante, p. 443.

third sentence of section 215(b)(2)(A) of the Social Security Act (as added by such amendments) shall apply only with respect to monthly benefits payable for months beginning on or after July 1, 1981.

PROVISIONS RELATING TO MEDICARE WAITING PERIOD FOR RECIPIENTS OF DISABILITY BENEFITS

42 USC 426.

SEC. 103. (a)(1)(A) Section 226(b)(2) of the Social Security Act is amended by striking out "consecutive" in clauses (A) and (B).

(B) Section 226(b) of such Act is further amended by striking out "consecutive" in the matter following paragraph (2).

42 USC 1395c.

(2) Section 1811 of such Act is amended by striking out "consecutive".

42 USC 1395p.

(3) Section 1837(g)(1) of such Act is amended by striking out "consecutive".

45 USC 231f.

(4) Section 7(d)(2)(ii) of the Railroad Retirement Act of 1974 is amended by striking out "consecutive" each place it appears.

42 USC 426.

(b) Section 226 of the Social Security Act is amended by redesignating subsection (f) as subsection (g), and by inserting after subsection (e) the following new subsection:

"(f) For purposes of subsection (b) (and for purposes of section 1837(g)(1) of this Act and section 7(d)(2)(ii) of the Railroad Retirement Act of 1974), the 24 months for which an individual has to have been entitled to specified monthly benefits on the basis of disability in order to become entitled to hospital insurance benefits on such basis effective with any particular month (or to be deemed to have enrolled in the supplementary medical insurance program, on the basis of such entitlement, by reason of section 1837(f)), where such individual had been entitled to specified monthly benefits of the same type during a previous period which terminated—

Supra.
Supra.

"(1) more than 60 months before the month in which his current disability began in any case where such monthly benefits were of the type specified in clause (A)(i) or (B) of subsection (b)(2), or

"(2) more than 84 months before the month in which his current disability began in any case where such monthly benefits were of the type specified in clause (A)(ii) or (A)(iii) of such subsection,

shall not include any month which occurred during such previous period.".

42 USC 426 note.

(c) The amendments made by this section shall apply with respect to hospital insurance or supplementary medical insurance benefits for services provided on or after the first day of the sixth month which begins after the date of the enactment of this Act.

CONTINUATION OF MEDICARE ELIGIBILITY

42 USC 426.

SEC. 104. (a) Section 226(b) of the Social Security Act is amended—

(1) by striking out "ending with the month" in the matter following paragraph (2) and inserting in lieu thereof "ending (subject to the last sentence of this subsection) with the month", and

(2) by adding at the end thereof the following new sentence: "For purposes of this subsection, an individual who has had a period of trial work which ended as provided in section 222(c)(4)(A), and whose entitlement to benefits or status as a qualified railroad retirement beneficiary as described in para-

42 USC 422.

graph (2) has subsequently terminated, shall be deemed to be entitled to such benefits or to occupy such status (notwithstanding the termination of such entitlement or status) for the period of consecutive months throughout all of which the physical or mental impairment, on which such entitlement or status was based, continues, and throughout all of which such individual would have been entitled to monthly insurance benefits under title II or as a qualified railroad retirement beneficiary had such individual been unable to engage in substantial gainful activity, but not in excess of 24 such months.". 42 USC 401.

(b) The amendments made by subsection (a) shall become effective on the first day of the sixth month which begins after the date of the enactment of this Act, and shall apply with respect to any individual whose disability has not been determined to have ceased prior to such first day. Effective date. 42 USC 426 note.

TITLE II—PROVISIONS RELATING TO DISABILITY BENEFITS UNDER THE SSI PROGRAM

BENEFITS FOR INDIVIDUALS WHO PERFORM SUBSTANTIAL GAINFUL ACTIVITY DESPITE SEVERE MEDICAL IMPAIRMENT

SEC. 201. (a) Part A of title XVI of the Social Security Act is amended by adding at the end thereof the following new section:

"BENEFITS FOR INDIVIDUALS WHO PERFORM SUBSTANTIAL GAINFUL ACTIVITY DESPITE SEVERE MEDICAL IMPAIRMENT

"SEC. 1619. (a) Any individual who is an eligible individual (or eligible spouse) by reason of being under a disability and was eligible to receive benefits under section 1611(b) or under this section for the month preceding the month for which eligibility for benefits under this section is now being determined, and who would otherwise be denied benefits by reason of section 1611(e)(4) or ceases to be an eligible individual (or eligible spouse) because his earnings have demonstrated a capacity to engage in substantial gainful activity, shall nevertheless qualify for a monthly benefit equal to an amount determined under section 1611(b)(1) (or, in the case of an individual who has an eligible spouse, under section 1611(b)(2)), and for purposes of titles XIX and XX of this Act shall be considered a disabled individual receiving supplemental security income benefits under this title, for so long as the Secretary determines that— 42 USC 1382h. 42 USC 1382. 42 USC 1396, 1397.

"(1) such individual continues to have the disabling physical or mental impairment on the basis of which such individual was found to be under a disability, and continues to meet all non-disability-related requirements for eligibility for benefits under this title; and

"(2) the income of such individual, other than income excluded pursuant to section 1612(b), is not equal to or in excess of the amount which would cause him to be ineligible for payments under section 1611(b) (if he were otherwise eligible for such payments). 42 USC 1382a.

"(b) For purposes of titles XIX and XX, any individual under age 65 who, for the month preceding the first month in the period to which this subsection applies, received—

"(i) a payment of supplemental security income benefits under section 1611(b) on the basis of blindness or disability,

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42 USC 1382e.
87 Stat. 155.

"(ii) a supplementary payment under section 1616 of this Act or under section 212 of Public Law 93-66 on such basis,

"(iii) a payment of monthly benefits under subsection (a), or

"(iv) a supplementary payment under section 1616(c)(3),

shall be considered to be a blind or disabled individual receiving supplemental security income benefits for so long as the Secretary determines under regulations that—

"(1) such individual continues to be blind or continues to have the disabling physical or mental impairment on the basis of which he was found to be under a disability and, except for his earnings, continues to meet all non-disability-related requirements for eligibility for benefits under this title;

"(2) the income of such individual would not, except for his earnings, be equal to or in excess of the amount which would cause him to be ineligible for payments under section 1611(b) (if he were otherwise eligible for such payments);

"(3) the termination of eligibility for benefits under title XIX or XX would seriously inhibit his ability to continue his employment; and

"(4) such individual's earnings are not sufficient to allow him to provide for himself a reasonable equivalent of the benefits under this title and titles XIX and XX which would be available to him in the absence of such earnings.".

42 USC 1382e.

(b)(1) Section 1616(c) of such Act is amended by adding at the end thereof the following new paragraph:

"(3) Any State (or political subdivision) making supplementary payments described in subsection (a) shall have the option of making such payments to individuals who receive benefits under this title under the provisions of section 1619, or who would be eligible to receive such benefits but for their income.".

42 USC 1382 note.

(2) Section 212(a) of Public Law 93-66 is amended by adding at the end thereof the following new paragraph:

"(4) Any State having an agreement with the Secretary under paragraph (1) may, at its option, include individuals receiving benefits under section 1619 of the Social Security Act, or who would be eligible to receive such benefits but for their income, under the agreement as though they are aged, blind, or disabled individuals as specified in paragraph (2)(A).".

Ante, p. 445.

(c) Part A of title XVI of the Social Security Act is amended by adding at the end thereof (after the new section added by subsection (a) of this section) the following new section:

Ante, p. 445.

"MEDICAL AND SOCIAL SERVICES FOR CERTAIN HANDICAPPED PERSONS

42 USC 1382i.

"SEC. 1620. (a) There are authorized to be appropriated such sums as may be necessary to establish and carry out a 3-year Federal-State pilot program to provide medical and social services for certain handicapped individuals in accordance with this section.

"(b)(1) The total sum of $18,000,000 shall be allotted to the States for such program by the Secretary, during the period beginning September 1, 1981, and ending September 30, 1984, as follows:

"(A) The total sum of $6,000,000 shall be allotted to the States for the fiscal year ending September 30, 1982 (which for purposes of this section shall include the month of September 1981).

"(B) The total sum of $6,000,000, plus any amount remaining available (after the application of paragraph (4)) from the allot-

ment made under subparagraph (A), shall be allotted to the States for the fiscal year ending September 30, 1983.

"(C) The total sum of $6,000,000, plus any amount remaining available (after the application of paragraph (4)) from the allotments made under subparagraphs (A) and (B), shall be allotted to the States for the fiscal year ending September 30, 1984.

"(2) The allotment to each State from the total sum allotted under paragraph (1) for any fiscal year shall bear the same ratio to such total sum as the number of individuals in such State who are over age 17 and under age 65 and are receiving supplemental security income benefits as disabled individuals in such year (as determined by the Secretary on the basis of the most recent data available) bears to the total number of such individuals in all the States. For purposes of the preceding sentence, the term 'supplemental security income benefits' includes payments made pursuant to an agreement under section 1616(a) of this Act or under section 212(b) of Public Law 93-66.

"Supplemental security income benefits."

42 USC 1382e.
87 Stat. 155.

"(3) At the beginning of each fiscal year in which the pilot program under this section is in effect, each State that does not intend to use the allotment to which it is entitled for such year (or any allotment which was made to it for a prior fiscal year), or that does not intend to use the full amount of any such allotment, shall certify to the Secretary the amount of such allotment which it does not intend to use, and the State's allotment for the fiscal year (or years) involved shall thereupon be reduced by the amount so certified.

Certification to Secretary.

"(4) The portion of the total amount available for allotment for any particular fiscal year under paragraph (1) which is not allotted to States for that year by reason of paragraph (3) (plus the amount of any reductions made at the beginning of such year in the allotments of States for prior fiscal years under paragraph (3)) shall be reallocated in such manner as the Secretary may determine to be appropriate to States which need, and will use, additional assistance in providing services to severely handicapped individuals in that particular year under their approved plans. Any amount reallocated to a State under this paragraph for use in a particular fiscal year shall be treated for purposes of this section as increasing such State's allotment for that year by an equivalent amount.

Reallocation.

"(c) In order to participate in the pilot program and be eligible to receive payments for any period under subsection (d), a State (during such period) must have a plan, approved by the Secretary as meeting the requirements of this section, which provides medical and social services for severely handicapped individuals whose earnings are above the level which ordinarily demonstrates an ability to engage in substantial gainful activity and who are not receiving benefits under section 1611 or 1619 or assistance under a State plan approved under section 1902, and which—

42 USC 1382.
Ante, p. 445.
42 USC 1396a.

"(1) declares the intent of the State to participate in the pilot program;

"(2) designates an appropriate State agency to administer or supervise the administration of the program in the State;

"(3) describes the criteria to be applied by the State in determining the eligibility of any individual for assistance under the plan and in any event requires a determination by the State agency to the effect that (A) such individual's ability to continue his employment would be significantly inhibited without such assistance and (B) such individual's earnings are not sufficient to allow him to provide for himself a reasonable equivalent of the

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cash and other benefits that would be available to him under this title and titles XIX and XX in the absence of those earnings;

42 USC 1381, 1396, 1397.

"(4) describes the process by which the eligibility of individuals for such assistance is to be determined (and such process may not involve the performance of functions by any State agency or entity which is engaged in making determinations of disability for purposes of disability insurance or supplemental security income benefits except when the use of a different agency or entity to perform those functions would not be feasible);

"(5) describes the medical and social services to be provided under the plan;

"(6) describes the manner in which the medical and social services involved are to be provided and, if they are not to be provided through the State's medical assistance and social services programs under titles XIX and XX (with the Federal payments being made under subsection (d) of this section rather than under those titles), specifies the particular mechanisms and procedures to be used in providing such services; and

"(7) contains such other provisions as the Secretary may find to be necessary or appropriate to meet the requirements of this section or otherwise carry out its purpose.

The plan under this section may be developed and submitted as a separate State plan, or may be submitted in the form of an amendment to the State's plan under section 2003(d)(1).

42 USC 1397b.

"(d)(1) From its allotment under subsection (b) for any fiscal year (and any amounts remaining available from allotments made to it for prior fiscal years), the Secretary shall from time to time pay to each State which has a plan approved under subsection (c) an amount equal to 75 per centum of the total sum expended under such plan (including the cost of administration of such plan) in providing medical and social services to severely handicapped individuals who are eligible for such services under the plan.

"(2) The method of computing and making payments under this section shall be as follows:

"(A) The Secretary shall, prior to each period for which a payment is to be made to a State, estimate the amount to be paid to the State for such period under the provisions of this section.

"(B) From the allotment available therefor, the Secretary shall pay the amount so estimated, reduced or increased, as the case may be, by any sum (not previously adjusted under this subsection) by which he finds that his estimate of the amount to be paid the State for any prior period under this section was greater or less than the amount which should have been paid to the State for such period under this section.

Regulations.

"(e) Within nine months after the date of the enactment of this section, the Secretary shall prescribe and publish such regulations as may be necessary or appropriate to carry out the pilot program and otherwise implement this section.

Reports to Secretary and Congress.

"(f) Each State participating in the pilot program under this section shall from time to time report to the Secretary on the operation and results of such program in that State, with particular emphasis upon the work incentive effects of the program. On or before October 1, 1983, the Secretary shall submit to the Congress a report on the program, incorporating the information contained in the State reports along with his findings and recommendations.".

(d) The amendments made by subsections (a) and (b) shall become effective on January 1, 1981, but shall remain in effect only for a period of three years after such effective date. Effective date. 42 USC 1382h note.

(e) The Secretary shall provide for separate accounts with respect to the benefits payable by reason of the amendments made by subsections (a) and (b) so as to provide for evaluation of the effects of such amendments on the programs established by titles II, XVI, XIX, and XX of the Social Security Act. 42 USC 1382h note. 42 USC 401, 1381, 1396, 1397.

EARNED INCOME IN SHELTERED WORKSHOPS

SEC. 202. (a) Section 1612(a)(1) of the Social Security Act is amended— 42 USC 1382a.

(1) by striking out "and" after the semicolon at the end of subparagraph (A); and

(2) by adding after subparagraph (B) the following new subparagraph:

"(C) remuneration received for services performed in a sheltered workshop or work activities center; and".

(b) The amendments made by subsection (a) shall apply only with respect to remuneration received in months after September 1980. 42 USC 1382a note.

TERMINATION OF ATTRIBUTION OF PARENTS' INCOME AND RESOURCES WHEN CHILD ATTAINS AGE 18

SEC. 203. (a) Section 1614(f)(2) of the Social Security Act is amended by striking out "under age 21" and inserting in lieu thereof "under age 18". 42 USC 1382c.

(b) The amendment made by subsection (a) shall become effective on October 1, 1980; except that the amendment made by such subsection shall not apply, in the case of any child who, in September 1980, was 18 or over and received a supplemental security income benefit for such month, during any period for which such benefit would be greater without the application of such amendment. Effective date. 42 USC 1382c note.

TITLE III—PROVISIONS AFFECTING DISABILITY RECIPIENTS UNDER OASDI AND SSI PROGRAMS; ADMINISTRATIVE PROVISIONS

CONTINUED PAYMENT OF BENEFITS TO INDIVIDUALS UNDER VOCATIONAL REHABILITATION PLANS

SEC. 301. (a)(1) Section 225 of the Social Security Act is amended by inserting "(a)" after "SEC. 225.", and by adding at the end thereof the following new subsection: 42 USC 425.

"(b) Notwithstanding any other provision of this title, payment to an individual of benefits based on disability (as described in the first sentence of subsection (a)) shall not be terminated or suspended because the physical or mental impairment, on which the individual's entitlement to such benefits is based, has or may have ceased, if—

"(1) such individual is participating in an approved vocational rehabilitation program under a State plan approved under title I of the Rehabilitation Act of 1973, and 29 USC 720.

"(2) the Commissioner of Social Security determines that the completion of such program, or its continuation for a specified period of time, will increase the likelihood that such individual

may (following his participation in such program) be permanently removed from the disability benefit rolls.".

(2) Section 225(a) of such Act (as designated under subsection (a) of this section) is amended by striking out "this section" each place it appears and inserting in lieu thereof "this subsection".

42 USC 1383.

(b) Section 1631(a) of such Act is amended by adding at the end thereof the following new paragraph:

"(6) Notwithstanding any other provision of this title, payment of the benefit of any individual who is an aged, blind, or disabled individual solely by reason of disability (as determined under section 1614(a)(3)) shall not be terminated or suspended because the physical or mental impairment, on which the individual's eligibility for such benefit is based, has or may have ceased, if—

"(A) such individual is participating in an approved vocational rehabilitation program under a State plan approved under title I of the Rehabilitation Act of 1973, and

"(B) the Commissioner of Social Security determines that the completion of such program, or its continuation for a specified period of time, will increase the likelihood that such individual may (following his participation in such program) be permanently removed from the disability benefit rolls.".

Effective date.

(c) The amendments made by this section shall become effective on the first day of the sixth month which begins after the date of the enactment of this Act, and shall apply with respect to individuals whose disability has not been determined to have ceased prior to such first day.

EXTRAORDINARY WORK EXPENSES DUE TO SEVERE DISABILITY

SEC. 302. (a)(1) Section 223(d)(4) of the Social Security Act is amended by inserting after the third sentence the following new sentence: "In determining whether an individual is able to engage in substantial gainful activity by reason of his earnings, where his disability is sufficiently severe to result in a functional limitation requiring assistance in order for him to work, there shall be excluded from such earnings an amount equal to the cost (to such individual) of any attendant care services, medical devices, equipment, prostheses, and similar items and services (not including routine drugs or routine medical services unless such drugs or services are necessary for the control of the disabling condition) which are necessary (as determined by the Secretary in regulations) for that purpose, whether or not such assistance is also needed to enable him to carry out his normal daily functions; except that the amounts to be excluded shall be subject to such reasonable limits as the Secretary may prescribe.".

(2) Section 1614(a)(3)(D) of such Act is amended by inserting after the first sentence the following new sentence: "In determining whether an individual is able to engage in substantial gainful activity by reason of his earnings, where his disability is sufficiently severe to result in a functional limitation requiring assistance in order for him to work, there shall be excluded from such earnings an amount equal to the cost (to such individual) of any attendant care services, medical devices, equipment, prostheses, and similar items and services (not including routine drugs or routine medical services unless such drugs or services are necessary for the control of the disabling condition) which are necessary (as determined by the Secretary in regulations) for that purpose, whether or not such assistance is also needed to enable him to carry out his normal daily functions; except that the

amounts to be excluded shall be subject to such reasonable limits as the Secretary may prescribe.".

(b) Section 1612(b)(4)(B) of such Act is amended by striking out "plus one-half of the remainder thereof, and (ii)" and inserting in lieu thereof the following: "(ii) such additional amounts of earned income of such individual (for purposes of determining the amount of his or her benefits under this title and of determining his or her eligibility for such benefits for consecutive months of eligibility after the initial month of such eligibility), if such individual's disability is sufficiently severe to result in a functional limitation requiring assistance in order for him to work, as may be necessary to pay the costs (to such individual) of attendant care services, medical devices, equipment, prostheses, and similar items and services (not including routine drugs or routine medical services unless such drugs or services are necessary for the control of the disabling condition) which are necessary (as determined by the Secretary in regulations) for that purpose, whether or not such assistance is also needed to enable him to carry out his normal daily functions, except that the amounts to be excluded shall be subject to such reasonable limits as the Secretary may prescribe, (iii) one-half of the amount of earned income not excluded after the application of the preceding provisions of this subparagraph, and (iv)". 42 USC 1382a.

(c) The amendments made by this section shall apply with respect to expenses incurred on or after the first day of the sixth month which begins after the date of the enactment of this Act. 42 USC 423 note.

REENTITLEMENT TO DISABILITY BENEFITS

SEC. 303. (a)(1) Section 222(c)(1) of the Social Security Act is amended by striking out "section 223 or 202(d)" and inserting in lieu thereof "section 223, 202(d), 202(e), or 202(f)". 42 USC 422. 42 USC 423, 402.

(2) Section 222(c)(3) of such Act is amended by striking out the period at the end of the first sentence and inserting in lieu thereof ", or, in the case of an individual entitled to widow's or widower's insurance benefits under section 202 (e) or (f) who became entitled to such benefits prior to attaining age 60, with the month in which such individual becomes so entitled.".

(b)(1)(A) Section 223(a)(1) of such Act is amended by striking out "or the third month following the month in which his disability ceases." at the end of the first sentence and inserting in lieu thereof "or, subject to subsection (e), the termination month. For purposes of the preceding sentence, the termination month for any individual shall be the third month following the month in which his disability ceases; except that, in the case of an individual who has a period of trial work which ends as determined by application of section 222(c)(4)(A), the termination month shall be the earlier of (I) the third month following the earliest month after the end of such period of trial work with respect to which such individual is determined to no longer be suffering from a disabling physical or mental impairment, or (II) the third month following the earliest month in which such individual engages or is determined able to engage in substantial gainful activity, but in no event earlier than the first month occurring after the 15 months following such period of trial work in which he engages or is determined able to engage in substantial gainful activity.".

(B) Section 202(d)(1)(G) of such Act is amended—

(i) by redesignating clauses (i) and (ii) as clauses (III) and (IV), respectively, and

(ii) by striking out "the third month following the month in which he ceases to be under such disability" and inserting in lieu thereof ", or, subject to section 223(e), the termination month (and for purposes of this subparagraph, the termination month for any individual shall be the third month following the month in which his disability ceases; except that, in the case of an individual who has a period of trial work which ends as determined by application of section 222(c)(4)(A), the termination month shall be the earlier of (I) the third month following the earliest month after the end of such period of trial work with respect to which such individual is determined to no longer be suffering from a disabling physical or mental impairment, or (II) the third month following the earliest month in which such individual engages or is determined able to engage in substantial gainful activity, but in no event earlier than the first month occurring after the 15 months following such period of trial work in which he engages or is determined able to engage in substantial gainful activity,".

42 USC 423.

42 USC 422.

(C) Section 202(e)(1) of such Act is amended by striking out "the third month following the month in which her disability ceases (unless she attains age 65 on or before the last day of such third month)." at the end thereof and inserting in lieu thereof ", subject to section 223(e), the termination month (unless she attains age 65 on or before the last day of such termination month). For purposes of the preceding sentence, the termination month for any individual shall be the third month following the month in which her disability ceases; except that, in the case of an individual who has a period of trial work which ends as determined by application of section 222(c)(4)(A), the termination month shall be the earlier of (I) the third month following the earliest month after the end of such period of trial work with respect to which such individual is determined to no longer be suffering from a disabling physical or mental impairment, or (II) the third month following the earliest month in which such individual engages or is determined able to engage in substantial gainful activity, but in no event earlier than the first month occurring after the 15 months following such period of trial work in which he engages or is determined able to engage in substantial gainful activity.".

42 USC 402.

(D) Section 202(f)(1) of such Act is amended by striking out "the third month following the month in which his disability ceases (unless he attains age 65 on or before the last day of such third month)." at the end thereof and inserting in lieu thereof ", subject to section 223(e), the termination month (unless he attains age 65 on or before the last day of such termination month). For purposes of the preceding sentence, the termination month for any individual shall be the third month following the month in which his disability ceases; except that, in the case of an individual who has a period of trial work which ends as determined by application of section 222(c)(4)(A), the termination month shall be the earlier of (I) the third month following the earliest month after the end of such period of trial work with respect to which such individual is determined to no longer be suffering from a disabling physical or mental impairment, or (II) the third month following the earliest month in which such individual engages or is determined able to engage in substantial gainful activity, but in no event earlier than the first month occurring after the 15 months following such period of trial work in which he engages or is determined able to engage in substantial gainful activity.".

(2)(A) Section 223 of such Act is amended by adding at the end thereof the following new subsection: 42 USC 423.

"(e) No benefit shall be payable under subsection (d)(1)(B)(ii), (e)(1)(B)(ii), or (f)(1)(B)(ii) of section 202 or under subsection (a)(1) of this section to an individual for any month, after the third month, in which he engages in substantial gainful activity during the 15-month period following the end of his trial work period determined by application of section 222(c)(4)(A).". 42 USC 402. 42 USC 422.

(B) Section 216(i)(2)(D) of such Act is amended by striking out "(ii)" and all that follows and inserting in lieu thereof "(ii) the month preceding (I) the termination month (as defined in section 223(a)(1)), or, if earlier (II) the first month for which no benefit is payable by reason of section 223(e), where no benefit is payable for any of the succeeding months during the 15-month period referred to in such section." 42 USC 416.

(c)(1)(A) Section 1614(a)(3) of such Act is amended by adding at the end thereof the following new subparagraph: 42 USC 1382c.

"(F) For purposes of this title, an individual whose trial work period has ended by application of paragraph (4)(D)(i) shall, subject to section 1611(e)(4), nonetheless be considered (except for purposes of section 1631(a)(5)) to be disabled through the end of the month preceding the termination month. For purposes of the preceding sentence, the termination month for any individual shall be the earlier of (i) the earliest month after the end of such period of trial work with respect to which such individual is determined to no longer be suffering from a disabling physical or mental impairment, or (ii) the first month, after the period of 15 consecutive months following the end of such period of trial work, in which such individual engages in or is determined to be able to engage in substantial gainful activity.". 42 USC 1382. 42 USC 1383.

(B) Section 1614(a)(3)(D) of such Act is amended by striking out "paragraph (4)" and inserting in lieu thereof "subparagraph (F) or paragraph (4)". *Ante*, p. 450.

(2) Section 1611(e) of such Act is amended by adding at the end thereof the following new paragraph:

"(4) No benefit shall be payable under this title, except as provided in section 1619 (or section 1616(c)(3)), with respect to an eligible individual or his eligible spouse who is an aged, blind, or disabled individual solely by application of section 1614(a)(3)(F) for any month, after the third month, in which he engages in substantial gainful activity during the fifteen-month period following the end of his trial work period determined by application of section 1614(a)(4)(D)(i).". *Ante*, pp. 445, 446. *Supra*.

(d) The amendments made by this section shall become effective on the first day of the sixth month which begins after the date of the enactment of this Act, and shall apply with respect to any individual whose disability has not been determined to have ceased prior to such first day. Effective date. 42 USC 402 note.

DISABILITY DETERMINATIONS; FEDERAL REVIEW OF STATE AGENCY DETERMINATIONS

SEC. 304. (a) Section 221(a) of the Social Security Act is amended to read as follows: 42 USC 421.

"(a)(1) In the case of any individual, the determination of whether or not he is under a disability (as defined in section 216(i) or 223(d)) and of the day such disability began, and the determination of the day on which such disability ceases, shall be made by a State agency, notwithstanding any other provision of law, in any State that notifies 42 USC 416, 423.

the Secretary in writing that it wishes to make such disability determinations commencing with such month as the Secretary and the State agree upon, but only if (A) the Secretary has not found, under subsection (b)(1), that the State agency has substantially failed to make disability determinations in accordance with the applicable provisions of this section or rules issued thereunder, and (B) the State has not notified the Secretary, under subsection (b)(2), that it does not wish to make such determinations. If the Secretary once makes the finding described in clause (A) of the preceding sentence, or the State gives the notice referred to in clause (B) of such sentence, the Secretary may thereafter determine whether (and, if so, beginning with which month and under what conditions) the State may again make disability determinations under this paragraph.

"(2) The disability determinations described in paragraph (1) made by a State agency shall be made in accordance with the pertinent provisions of this title and the standards and criteria contained in regulations or other written guidelines of the Secretary pertaining to matters such as disability determinations, the class or classes of individuals with respect to which a State may make disability determinations (if it does not wish to do so with respect to all individuals in the State), and the conditions under which it may choose not to make all such determinations. In addition, the Secretary shall promulgate regulations specifying, in such detail as he deems appropriate, performance standards and administrative requirements and procedures to be followed in performing the disability determination function in order to assure effective and uniform administration of the disability insurance program throughout the United States. The regulations may, for example, specify matters such as—

Regulations.

"(A) the administrative structure and the relationship between various units of the State agency responsible for disability determinations,

"(B) the physical location of and relationship among agency staff units, and other individuals or organizations performing tasks for the State agency, and standards for the availability to applicants and beneficiaries of facilities for making disability determinations,

"(C) State agency performance criteria, including the rate of accuracy of decisions, the time periods within which determinations must be made, the procedures for and the scope of review by the Secretary, and, as he finds appropriate, by the State, of its performance in individual cases and in classes of cases, and rules governing access of appropriate Federal officials to State offices and to State records relating to its administration of the disability determination function,

"(D) fiscal control procedures that the State agency may be required to adopt, and

"(E) the submission of reports and other data, in such form and at such time as the Secretary may require, concerning the State agency's activities relating to the disability determination.

Nothing in this section shall be construed to authorize the Secretary to take any action except pursuant to law or to regulations promulgated pursuant to law.".

42 USC 421.
Disability determinations.

(b) Section 221(b) of such Act is amended to read as follows:

"(b)(1) If the Secretary finds, after notice and opportunity for a hearing, that a State agency is substantially failing to make disability determinations in a manner consistent with his regulations and other

written guidelines, the Secretary shall, not earlier than 180 days following his finding, and after he has complied with the requirements of paragraph (3), make the disability determinations referred to in subsection (a)(1).

Notification to Secretary.

"(2) If a State, having notified the Secretary of its intent to make disability determinations under subsection (a)(1), no longer wishes to make such determinations, it shall notify the Secretary in writing of that fact, and, if an agency of the State is making disability determinations at the time such notice is given, it shall continue to do so for not less than 180 days, or (if later) until the Secretary has complied with the requirements of paragraph (3). Thereafter, the Secretary shall make the disability determinations referred to in subsection (a)(1).

Assumption of State agency function.

"(3)(A) The Secretary shall develop and initiate all appropriate procedures to implement a plan with respect to any partial or complete assumption by the Secretary of the disability determination function from a State agency, as provided in this section, under which employees of the affected State agency who are capable of performing duties in the disability determination process for the Secretary shall, notwithstanding any other provision of law, have a preference over any other individual in filling an appropriate employment position with the Secretary (subject to any system established by the Secretary for determining hiring priority among such employees of the State agency) unless any such employee is the administrator, the deputy administrator, or assistant administrator (or his equivalent) of the State agency, in which case the Secretary may accord such priority to such employee.

State agency employees, determination by Secretary of Labor.

"(B) The Secretary shall not make such assumption of the disability determination function until such time as the Secretary of Labor determines that, with respect to employees of such State agency who will be displaced from their employment on account of such assumption by the Secretary and who will not be hired by the Secretary to perform duties in the disability determination process, the State has made fair and equitable arrangements to protect the interests of employees so displaced. Such protective arrangements shall include only those provisions which are provided under all applicable Federal, State and local statutes including, but not limited to, (i) the preservation of rights, privileges, and benefits (including continuation of pension rights and benefits) under existing collective-bargaining agreements; (ii) the continuation of collective-bargaining rights; (iii) the assignment of affected employees to other jobs or to retraining programs; (iv) the protection of individual employees against a worsening of their positions with respect to their employment; (v) the protection of health benefits and other fringe benefits; and (vi) the provision of severance pay, as may be necessary.".

42 USC 421.

(c) Section 221(c) of such Act is amended to read as follows:

Review.

"(c)(1) The Secretary may on his own motion or as required under paragraphs (2) and (3) review a determination, made by a State agency under this section, that an individual is or is not under a disability (as defined in section 216(i) or 223(d)) and, as a result of such review, may modify such agency's determination and determine that such individual either is or is not under a disability (as so defined) or that such individual's disability began on a day earlier or later than that determined by such agency, or that such disability ceased on a day earlier or later than that determined by such agency. A review by the Secretary on his own motion of a State agency determination

42 USC 416, 423.

under this paragraph may be made before or after any action is taken to implement such determination.

"(2) The Secretary (in accordance with paragraph (3)) shall review determinations, made by State agencies pursuant to this section, that individuals are under disabilities (as defined in section 216(i) or 223(d)). Any review by the Secretary of a State agency determination under this paragraph shall be made before any action is taken to implement such determination.

42 USC 416, 423.

"(3) In carrying out the provisions of paragraph (2) with respect to the review of determinations, made by State agencies pursuant to this section, that individuals are under disabilities (as defined in section 216(i) or 223(d)), the Secretary shall review—

"(A) at least 15 percent of all such determinations made by State agencies in the fiscal year 1981,

"(B) at least 35 percent of all such determinations made by State agencies in the fiscal year 1982, and

"(C) at least 65 percent of all such determinations made by State agencies in any fiscal year after the fiscal year 1982.".

42 USC 421.

(d) Section 221(d) of such Act is amended by striking out "(a)" and inserting in lieu thereof "(a), (b)".

(e) The first sentence of section 221(e) of such Act is amended—

(1) by striking out "which has an agreement with the Secretary" and inserting in lieu thereof "which is making disability determinations under subsection (a)(1)",

(2) by striking out "as may be mutually agreed upon" and inserting in lieu thereof "as determined by the Secretary", and

(3) by striking out "carrying out the agreement under this section" and inserting in lieu thereof "making disability determinations under subsection (a)(1)".

(f) Section 221(g) of such Act is amended—

(1) by striking out "has no agreement under subsection (b)" and inserting in lieu thereof "does not undertake to perform disability determinations under subsection (a)(1), or which has been found by the Secretary to have substantially failed to make disability determinations in a manner consistent with his regulations and guidelines", and

(2) by striking out "not included in an agreement under subsection (b)" and inserting in lieu thereof "for whom no State undertakes to make disability determinations".

Report to Congress.
42 USC 421 note.

(g) The Secretary of Health and Human Services shall implement a program of reviewing, on his own motion, decisions rendered by administrative law judges as a result of hearings under section 221(d) of the Social Security Act, and shall report to the Congress by January 1, 1982, on his progress.

Effective date.
42 USC 421 note.

(h) The amendments made by subsections (a), (b), (d), (e), and (f) shall be effective beginning with the twelfth month following the month in which this Act is enacted. Any State that, on the effective date of the amendments made by this section, has in effect an agreement with the Secretary of Health and Human Services under section 221(a) of the Social Security Act (as in effect prior to such amendments) will be deemed to have given to the Secretary the notice specified in section 221(a)(1) of such Act as amended by this section, in lieu of continuing such agreement in effect after the effective date of such amendments. Thereafter, a State may notify the Secretary in writing that it no longer wishes to make disability determinations, effective not less than 180 days after the notification is given.

State agreements with Secretary of Health and Human Services, notification.

(i) The Secretary of Health and Human Services shall submit to the Congress by July 1, 1980, a detailed plan on how he expects to assume the functions and operations of a State disability determination unit when this becomes necessary under the amendments made by this section, and how he intends to meet the requirements of section 221(b)(3) of the Social Security Act. Such plan should assume the uninterrupted operation of the disability determination function and the utilization of the best qualified personnel to carry out such function. If any amendment of Federal law or regulation is required to carry out such plan, recommendations for such amendment should be included in the report.

Plan, submittal to Congress.
42 USC 421 note.

42 USC 421.

INFORMATION TO ACCOMPANY SECRETARY'S DECISIONS

SEC. 305. (a) Section 205(b) of the Social Security Act is amended by inserting after the first sentence the following new sentence: "Any such decision by the Secretary which involves a determination of disability and which is in whole or in part unfavorable to such individual shall contain a statement of the case, in understandable language, setting forth a discussion of the evidence, and stating the Secretary's determination and the reason or reasons upon which it is based.".

42 USC 405.

(b) Section 1631(c)(1) of such Act is amended by inserting after the first sentence thereof the following new sentence: "Any such decision by the Secretary which involves a determination of disability and which is in whole or in part unfavorable to such individual shall contain a statement of the case, in understandable language, setting forth a discussion of the evidence, and stating the Secretary's determination and the reason or reasons upon which it is based.".

42 USC 1383.

(c) The amendments made by this section shall apply with respect to decisions made on or after the first day of the 13th month following the month in which this Act is enacted.

42 USC 405 note.

LIMITATION ON PROSPECTIVE EFFECT OF APPLICATION

SEC. 306. (a) Section 202(j)(2) of the Social Security Act is amended to read as follows:

42 USC 402.

"(2) An application for any monthly benefits under this section filed before the first month in which the applicant satisfies the requirements for such benefits shall be deemed a valid application (and shall be deemed to have been filed in such first month) only if the applicant satisfies the requirements for such benefits before the Secretary makes a final decision on the application and no request under section 205(b) for notice and opportunity for a hearing thereon is made or, if such a request is made, before a decision based upon the evidence adduced at the hearing is made (regardless of whether such decision becomes the final decision of the Secretary).".

42 USC 405.

(b) Section 216(i)(2)(G) of such Act is amended—

42 USC 416.

(1) by inserting "(and shall be deemed to have been filed on such first day)" immediately after "shall be deemed a valid application" in the first sentence,

(2) by striking out the period at the end of the first sentence and inserting in lieu thereof "and no request under section 205(b) for notice and opportunity for a hearing thereon is made or, if such a request is made, before a decision based upon the evidence adduced at the hearing is made (regardless of whether such decision becomes the final decision of the Secretary).", and

(3) by striking out the second sentence.

42 USC 423. (c) Section 223(b) of such Act is amended—

(1) by inserting "(and shall be deemed to have been filed in such first month)" immediately after "shall be deemed a valid application" in the first sentence,

(2) by striking out the period at the end of the first sentence and inserting in lieu thereof "and no request under section 205(b) for notice and opportunity for a hearing thereon is made, or if such a request is made, before a decision based upon the evidence adduced at the hearing is made (regardless of whether such decision becomes the final decision of the Secretary).", and

(3) by striking out the second sentence.

42 USC 402 note. (d) The amendments made by this section shall apply to applications filed after the month in which this Act is enacted.

LIMITATION ON COURT REMANDS

42 USC 405. SEC. 307. The sixth sentence of section 205(g) of the Social Security Act is amended by striking out all that precedes "and the Secretary shall" and inserting in lieu thereof the following: "The court may, on motion of the Secretary made for good cause shown before he files his answer, remand the case to the Secretary for further action by the Secretary, and it may at any time order additional evidence to be taken before the Secretary, but only upon a showing that there is new evidence which is material and that there is good cause for the failure to incorporate such evidence into the record in a prior proceeding;".

TIME LIMITATIONS FOR DECISIONS ON BENEFIT CLAIMS

Report to Congress. 42 USC 401 note. 42 USC 401. SEC. 308. The Secretary of Health and Human Services shall submit to the Congress, no later than July 1, 1980, a report recommending the establishment of appropriate time limitations governing decisions on claims for benefits under title II of the Social Security Act. Such report shall specifically recommend—

(1) the maximum period of time (after application for a payment under such title is filed) within which the initial decision of the Secretary as to the rights of the applicant should be made;

(2) the maximum period of time (after application for reconsideration of any decision described in paragraph (1) is filed) within which a decision of the Secretary on such reconsideration should be made;

(3) the maximum period of time (after a request for a hearing with respect to any decision described in paragraph (1) is filed) within which a decision of the Secretary upon such hearing (whether affirming, modifying, or reversing such decision) should be made; and

(4) the maximum period of time (after a request for review by the Appeals Council with respect to any decision described in paragraph (1) is made) within which the decision of the Secretary upon such review (whether affirming, modifying, or reversing such decision) should be made.

In determining the time limitations to be recommended, the Secretary shall take into account both the need for expeditious processing of claims for benefits and the need to assure that all such claims will be thoroughly considered and accurately determined.

PAYMENT FOR EXISTING MEDICAL EVIDENCE

SEC. 309. (a) Section 223(d)(5) of the Social Security Act is amended by adding at the end thereof the following new sentence: "Any non-Federal hospital, clinic, laboratory, or other provider of medical services, or physician not in the employ of the Federal Government, which supplies medical evidence required and requested by the Secretary under this paragraph shall be entitled to payment from the Secretary for the reasonable cost of providing such evidence.". 42 USC 423.

(b) The amendment made by subsection (a) shall apply with respect to evidence requested on or after the first day of the sixth month which begins after the date of the enactment of this Act. 42 USC 423 note.

PAYMENT OF CERTAIN TRAVEL EXPENSES

SEC. 310. (a) Section 201 of the Social Security Act is amended by adding at the end thereof the following new subsection: 42 USC 401.

"(j) There are authorized to be made available for expenditure, out of the Federal Old-Age and Survivors Insurance Trust Fund, or the Federal Disability Insurance Trust Fund (as determined appropriate by the Secretary), such amounts as are required to pay travel expenses, either on an actual cost or commuted basis, to individuals for travel incident to medical examinations requested by the Secretary in connection with disability determinations under this title, and to parties, their representatives, and all reasonably necessary witnesses for travel within the United States (as defined in section 210(i)) to attend reconsideration interviews and proceedings before administrative law judges with respect to any determination under this title. The amount available under the preceding sentence for payment for air travel by any person shall not exceed the coach fare for air travel between the points involved unless the use of first-class accommodations is required (as determined under regulations of the Secretary) because of such person's health condition or the unavailability of alternative accommodations; and the amount available for payment for other travel by any person shall not exceed the cost of travel (between the points involved) by the most economical and expeditious means of transportation appropriate to such person's health condition, as specified in such regulations.". 42 USC 410.

(b) Section 1631 of such Act is amended by adding at the end thereof the following new subsection: 42 USC 1383.

"Payment of Certain Travel Expenses

"(h) The Secretary shall pay travel expenses, either on an actual cost or commuted basis, to individuals for travel incident to medical examinations requested by the Secretary in connection with disability determinations under this title, and to parties, their representatives, and all reasonably necessary witnesses for travel within the United States (as defined in section 1614(e)) to attend reconsideration interviews and proceedings before administrative law judges with respect to any determination under this title. The amount available under the preceding sentence for payment for air travel by any person shall not exceed the coach fare for air travel between the points involved unless the use of first-class accommodations is required (as determined under regulations of the Secretary) because of such person's health condition or the unavailability of alternative accommodations; and the amount available for payment for other travel by any person shall not exceed the cost of travel (between the 42 USC 1382c.

points involved) by the most economical and expeditious means of transportation appropriate to such person's health condition, as specified in such regulations.".

42 USC 1395i.

(c) Section 1817 of such Act is amended by adding at the end thereof the following new subsection:

Travel expenses, authorized trust fund payments.

"(i) There are authorized to be made available for expenditure out of the Trust Fund such amounts as are required to pay travel expenses, either on an actual cost or commuted basis, to parties, their representatives, and all reasonably necessary witnesses for travel within the United States (as defined in section 210(i)) to attend reconsideration interviews and proceedings before administrative law judges with respect to any determination under this title. The amount available under the preceding sentence for payment for air travel by any person shall not exceed the coach fare for air travel between the points involved unless the use of first-class accommodations is required (as determined under regulations of the Secretary) because of such person's health condition or the unavailability of alternative accommodations; and the amount available for payment for other travel by any person shall not exceed the cost of travel (between the points involved) by the most economical and expeditious means of transportation appropriate to such person's health condition, as specified in such regulations.".

42 USC 410.

PERIODIC REVIEW OF DISABILITY DETERMINATIONS

42 USC 421.

SEC. 311. (a) Section 221 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(i) In any case where an individual is or has been determined to be under a disability, the case shall be reviewed by the applicable State agency or the Secretary (as may be appropriate), for purposes of continuing eligibility, at least once every 3 years; except that where a finding has been made that such disability is permanent, such reviews shall be made at such times as the Secretary determines to be appropriate. Reviews of cases under the preceding sentence shall be in addition to, and shall not be considered as a substitute for, any other reviews which are required or provided for under or in the administration of this title.".

Effective date.
42 USC 421 note.

(b) The amendment made by subsection (a) shall become effective on January 1, 1982.

REPORT BY SECRETARY

Submittal to Congress.
42 USC 401 note.

SEC. 312. The Secretary of Health and Human Services shall submit to the Congress not later than January 1, 1985, a full and complete report as to the effects produced by reason of the preceding provisions of this Act and the amendments made thereby.

TITLE IV—PROVISIONS RELATING TO AFDC AND CHILD SUPPORT PROGRAMS

WORK REQUIREMENT UNDER THE AFDC PROGRAM

42 USC 602.

SEC. 401. (a) Section 402(a)(19)(A) of the Social Security Act is amended—

(1) by striking out all that follows "(A)" and precedes clause (i), and inserting in lieu thereof the following: "that every individual, as a condition of eligibility for aid under this part, shall

register for manpower services, training, employment, and other employment-related activities (including employment search, not to exceed eight weeks in total in each year) with the Secretary of Labor as provided by regulations issued by him, unless such individual is—";

(2) by striking out "or" at the end of clause (v);

(3) by striking out "under section 433(g)" in clause (vi); 42 USC 633.

(4) by adding "or" after the semicolon at the end of clause (vi); and

(5) by inserting after clause (vi) the following new clause:

"(vii) a person who is working not less than 30 hours per week;".

(b) Section 402(a)(19)(B) of such Act is amended by inserting "to families with dependent children" immediately after "that aid". 42 USC 602.

(c) Section 402(a)(19)(D) of such Act is amended by striking out ", and income derived from a special work project under the program established by section 432(b)(3)". 42 USC 632.

(d) Section 402(a)(19)(F) of such Act is amended—

(1) by striking out, "and for so long as any child, relative, or individual (certified to the Secretary of Labor pursuant to subparagraph (G))" in the matter preceding clause (i), and inserting in lieu thereof "(and for such period as is prescribed under joint regulations of the Secretary and the Secretary of Labor) any child, relative or individual"; and

(2) by inserting "and" after the semicolon at the end of clause (iv), and striking out all that follows.

(e) Section 402(a)(19)(G) of such Act is amended—

(1) by inserting "(which will, to the maximum extent feasible, be located in the same facility as that utilized for the administration of programs established pursuant to section 432(b) (1), (2), or (3))" immediately after "administrative unit" in clause (i);

(2) by striking out "subparagraph (A)," in clause (ii), and inserting in lieu thereof "subparagraph (A) of this paragraph (I)";

(3) by striking out "part C" where it first appears in clause (ii) and inserting in lieu thereof "section 432(b) (1), (2), or (3)"; and

(4) by striking out "employment or training under part C," in clause (ii) and inserting in lieu thereof "employment or training under section 432(b) (1), (2), or (3), (II) such social and supportive services as are necessary to enable such individuals as determined appropriate by the Secretary of Labor actively to engage in other employment-related (including but not limited to employment search) activities, as well as timely payment for necessary employment search expenses, and (III) for a period deemed appropriate by the Secretary of Labor after such an individual accepts employment, such social and supportive services as are reasonable and necessary to enable him to retain such employment,".

(f) Section 402(a)(19) of such Act is further amended—

(1) by striking out "and" at the end of subparagraph (F);

(2) by adding "and" after the semicolon at the end of subparagraph (G); and

(3) by adding after subparagraph (G) the following new subparagraph:

"(H) that an individual participating in employment search activities shall not be referred to employment opportunities which do not meet the criteria for appropriate work

and training to which an individual may otherwise be assigned under section 432(b) (1), (2), or (3);".

42 USC 632.
42 USC 603.

(g) Section 403(c) of such Act is amended by striking out "part C" and inserting in lieu thereof "section 432(b) (1), (2), or (3)".

(h) Section 403(d)(1) of such Act is amended by adding at the end thereof the following new sentence: "In determining the amount of the expenditures made under a State plan for any quarter with respect to social and supportive services pursuant to section 402(a)(19)(G), there shall be included the fair and reasonable value of goods and services furnished in kind from the State or any political subdivision thereof.".

Ante, p. 461.

42 USC 602 note.

(i) The amendments made by this section (other than those made by subsections (c) and (d)) shall take effect on September 30, 1980, and the joint regulations referred to in section 402(a)(19)(F) of the Social Security Act (as amended by this section) shall be promulgated on or before such date, and take effect on such date.

Ante, p. 461.

USE OF INTERNAL REVENUE SERVICE TO COLLECT CHILD SUPPORT FOR NON-AFDC FAMILIES

SEC. 402. (a) The first sentence of section 452(b) of the Social Security Act is amended by inserting "(or undertaken to be collected by such State pursuant to section 454(6))" immediately after "assigned to such State".

42 USC 652.
42 USC 654.

Effective date.
42 USC 652 note.

(b) The amendment made by subsection (a) shall take effect July 1, 1980.

SAFEGUARDS RESTRICTING DISCLOSURE OF CERTAIN INFORMATION UNDER AFDC AND SOCIAL SERVICE PROGRAMS

42 USC 602.

SEC. 403. (a) Section 402(a)(9) of the Social Security Act is amended—

(1) by striking out "and" at the end of clause (B); and

(2) by striking out "; and the safeguards" and all that follows and inserting in lieu thereof the following: ", and (D) any audit or similar activity conducted in connection with the administration of any such plan or program by any governmental entity which is authorized by law to conduct such audit or activity; and the safeguards so provided shall prohibit disclosure, to any committee or legislative body (other than an entity referred to in clause (D) with respect to an activity referred to in such clause), of any information which identifies by name or address any such applicant or recipient;".

42 USC 1397b.

(b) Section 2003(d)(1)(B) of such Act is amended—

(1) by striking out "provides that" and inserting in lieu thereof "provides safeguards which restrict";

(2) by striking out "will be restricted";

(3) by inserting "(A)" after "connected with"; and

(4) by inserting before the semicolon at the end thereof the following: ", and (B) any audit or similar activity conducted in connection with the administration of any such plan or program by any governmental entity which is authorized by law to conduct such audit or activity; and the safeguards so provided shall prohibit disclosure, to any committee or legislative body (other than an entity referred to in clause (B) with respect to an activity referred to in such clause), of any information which identifies by name or address any such applicant or recipient;".

(c) The amendments made by this section shall take effect on September 1, 1980. Effective date. 42 USC 602 note.

FEDERAL MATCHING FOR CHILD SUPPORT DUTIES PERFORMED BY CERTAIN COURT PERSONNEL

SEC. 404. (a) Section 455 of the Social Security Act is amended by adding at the end thereof the following new subsection: 42 USC 655.

"(c)(1) Subject to paragraph (2), there shall be included, in determining amounts expended by a State during any quarter for the operation of the plan approved under section 454, so much of the expenditures of courts of such State and its political subdivisions (excluding expenditures for or in connection with judges and other individuals making judicial determinations, but not excluding expenditures for or in connection with their administrative and support personnel) as are attributable to the performance of services which are directly related to, and clearly identifiable with, the operation of such plan. 42 USC 654.

"(2) The aggregate amount of the expenditures which are included pursuant to paragraph (1) for the quarters in any calendar year shall be reduced (but not below zero) by the total amount of expenditures described in paragraph (1) which were made by the State for the 12-month period beginning January 1, 1978.

"(3) The State agency may, if the law (or procedures established thereunder) of the State so provides, pay so much of the amount it receives under subsection (a) for any quarter as is payable by reason of the provisions of this subsection directly to the courts of the State (or political subdivisions thereof) furnishing the services on account of which the payment is payable.".

(b) The amendment made by subsection (a) shall apply with respect to expenditures made by States on or after July 1, 1980. Effective date. 42 USC 655 note.

CHILD SUPPORT MANAGEMENT INFORMATION SYSTEM

SEC. 405. (a) Section 455(a) of the Social Security Act is amended— 42 USC 655.

(1) by striking out "and" at the end of paragraph (1);

(2) by striking out the period at the end of paragraph (2) and inserting in lieu thereof ", and "; and

(3) by adding after and below paragraph (2) the following new paragraph:

"(3) equal to 90 percent (rather than the percent specified in clause (1) or (2)) of so much of the sums expended during such quarter as are attributable to the planning, design, development, installation or enhancement of an automatic data processing and information retrieval system which the Secretary finds meets the requirements specified in section 454(16);". Automatic data processing and information retrieval system. *Infra.*

(b) Section 454 of such Act is amended— 42 USC 654.

(1) by striking out "and" at the end of paragraph (14),

(2) by striking out the period at the end of paragraph (15) and inserting in lieu thereof "; and", and

(3) by adding after paragraph (15) the following new paragraph:

"(16) provide, at the option of the State, for the establishment, in accordance with an (initial and annually updated) advance automatic data processing planning document approved under section 452(d), of an automatic data processing and information retrieval system designed effectively and efficiently to assist *Post*, p. 464.

management in the administration of the State plan, in the State and localities thereof, so as (A) to control, account for, and monitor (i) all the factors in the child support enforcement collection and paternity determination process under such plan (including, but not limited to, (I) identifiable correlation factors (such as social security numbers, names, dates of birth, home addresses and mailing addresses (including postal ZIP codes) of any individual with respect to whom child support obligations are sought to be established or enforced and with respect to any person to whom such support obligations are owing) to assure sufficient compatibility among the systems of different jurisdictions to permit periodic screening to determine whether such individual is paying or is obligated to pay child support in more than one jurisdiction, (II) checking of records of such individuals on a periodic basis with Federal, intra- and inter-State, and local agencies, (III) maintaining the data necessary to meet the Federal reporting requirements on a timely basis, and (IV) delinquency and enforcement activities), (ii) the collection and distribution of support payments (both intra- and inter-State), the determination, collection and distribution, of incentive payments both inter- and intra-State, and the maintenance of accounts receivable on all amounts owed, collected and distributed, and (iii) the costs of all services rendered, either directly or by interfacing with State financial management and expenditure information, (B) to provide interface with records of the State's aid to families with dependent children program in order to determine if a collection of a support payment causes a change affecting eligibility for or the amount of aid under such program, (C) to provide for security against unauthorized access to, or use of, the data in such system, and (D) to provide management information on all cases under the State plan from initial referral or application through collection and enforcement.".

42 USC 652.

(c) Section 452 of such Act is amended by adding at the end thereof the following new subsection:

"(d)(1) The Secretary shall not approve the initial and annually updated advance automatic data processing planning document, referred to in section 454(16), unless he finds that such document, when implemented, will generally carry out the objectives of the management system referred to in such subsection, and such document—

Ante, p. 463.

"(A) provides for the conduct of, and reflects the results of, requirements analysis studies, which include consideration of the program mission, functions, organization, services, constraints, and current support, of, in, or relating to, such system,

"(B) contains a description of the proposed management system referred to in section 455(a)(3), including a description of information flows, input data, and output reports and uses,

Ante, p. 463.

"(C) sets forth the security and interface requirements to be employed in such management system,

"(D) describes the projected resource requirements for staff and other needs, and the resources available or expected to be available to meet such requirements,

"(E) contains an implementation plan and backup procedures to handle possible failures,

"(F) contains a summary of proposed improvement of such management system in terms of qualitative and quantitative benefits, and

"(G) provides such other information as the Secretary determines under regulation is necessary.

"(2)(A) The Secretary shall through the separate organizational unit established pursuant to subsection (a), on a continuing basis, review, assess, and inspect the planning, design, and operation of, management information systems referred to in section 455(a)(3), *Ante*, p. 463. with a view to determining whether, and to what extent, such systems meet and continue to meet requirements imposed under paragraph (1) and the conditions specified under section 454(16). *Ante*, p. 463.

"(B) If the Secretary finds with respect to any statewide management information system referred to in section 455(a)(3) that there is a failure substantially to comply with criteria, requirements, and other undertakings, prescribed by the advance automatic data processing planning document theretofore approved by the Secretary with respect to such system, then the Secretary shall suspend his approval of such document until there is no longer any such failure of such system to comply with such criteria, requirements, and other undertakings so prescribed.".

(d) Section 452 of the Social Security Act is further amended by adding after subsection (d) (as added by subsection (c) of this section) *Ante*, p. 464. the following new subsection:

"(e) The Secretary shall provide such technical assistance to States as he determines necessary to assist States to plan, design, develop, or install and provide for the security of, the management information systems referred to in section 455(a)(3).". Technical assistance to States.

(e) The amendments made by this section shall take effect on July 1, 1981, and shall be effective only with respect to expenditures, referred to in section 455(a)(3) of the Social Security Act (as amended by this Act), made on or after such date. Effective date. 42 USC 652 note.

AFDC MANAGEMENT INFORMATION SYSTEM

SEC. 406. (a) Section 403(a)(3) of the Social Security Act is amended— 42 USC 603.

(1) by striking out "and" at the end of subparagraph (A);

(2) by redesignating subparagraph (B) as subparagraph (C); and

(3) by inserting after subparagraph (A) the following new subparagraph:

"(B) 90 per centum of so much of the sums expended during such quarter as are attributable to the planning, design, development, or installation of such statewide mechanized claims processing and information retrieval systems as (i) meet the conditions of section 402(a)(30), and *Infra.* (ii) the Secretary determines are likely to provide more efficient, economical, and effective administration of the plan and to be compatible with the claims processing and information retrieval systems utilized in the administration of State plans approved under title XIX, and State programs with respect to which there is Federal financial participation under title XX, and". 42 USC 1396. 42 USC 1397. 42 USC 602.

(b)(1) Section 402(a) of such Act is amended—

(A) by striking out "and" at the end of paragraph (28);

(B) by striking out the period at the end of paragraph (29) and inserting in lieu thereof "; and"; and

(C) by adding after paragraph (29) the following new paragraph:

"(30) at the option of the State, provide for the establishment and operation, in accordance with an (initial and annually updated) advance automatic data processing planning document approved under subsection (d), of an automated statewide management information system designed effectively and efficiently, to assist management in the administration of the State plan for aid to families with dependent children approved under this part, so as (A) to control and account for (i) all the factors in the total eligibility determination process under such plan for aid (including but not limited to (I) identifiable correlation factors (such as social security numbers, names, dates of birth, home addresses, and mailing addresses (including postal ZIP codes), of all applicants and recipients of such aid and the relative with whom any child who is such an applicant or recipient is living) to assure sufficient compatibility among the systems of different jurisdictions to permit periodic screening to determine whether an individual is or has been receiving benefits from more than one jurisdiction, (II) checking records of applicants and recipients of such aid on a periodic basis with other agencies, both intra- and inter-State, for determination and verification of eligibility and payment pursuant to requirements imposed by other provisions of this Act), (ii) the costs, quality, and delivery of funds and services furnished to applicants for and recipients of such aid, (B) to notify the appropriate officials of child support, food stamp, social service, and medical assistance programs approved under title XIX whenever the case becomes ineligible or the amount of aid or services is changed, and (C) to provide for security against unauthorized access to, or use of, the data in such system.".

42 USC 1396.

42 USC 602.

(2) Section 402 of such Act is further amended by adding at the end thereof the following new subsection:

"(d)(1) The Secretary shall not approve the initial and annually updated advance automatic data processing planning document, referred to in subsection (a)(30), unless he finds that such document, when implemented, will generally carry out the objectives of the statewide management system referred to in such subsection, and such document—

Ante, p. 465.

"(A) provides for the conduct of, and reflects the results of, requirements analysis studies, which include consideration of the program mission, functions, organization, services, constraints, and current support, of, in, or relating to, such system,

"(B) contains a description of the proposed statewide management system, including a description of information flows, input data, and output reports and uses,

"(C) sets forth the security and interface requirements to be employed in such statewide management system,

"(D) describes the projected resource requirements for staff and other needs, and the resources available or expected to be available to meet such requirements,

"(E) includes cost-benefit analyses of each alternative management system, data processing services and equipment, and a cost allocation plan containing the basis for rates, both direct and indirect, to be in effect under such statewide management system,

"(F) contains an implementation plan with charts of development events, testing descriptions, proposed acceptance criteria, and backup and fallback procedures to handle possible failure of contingencies, and

"(G) contains a summary of proposed improvement of such statewide management system in terms of qualitative and quantitative benefits.

"(2)(A) The Secretary shall, on a continuing basis, review, assess, and inspect the planning, design, and operation of, statewide management information systems referred to in section 403(a)(3)(B), with a view to determining whether, and to what extent, such systems meet and continue to meet requirements imposed under such section and the conditions specified under subsection (a)(30) of this section. *Ante*, p. 465. *Ante*, p. 465.

"(B) If the Secretary finds with respect to any statewide management information system referred to in section 403(a)(3)(B) that there is a failure substantially to comply with criteria, requirements, and other undertakings, prescribed by the advance automatic data processing planning document theretofore approved by the Secretary with respect to such system, then the Secretary shall suspend his approval of such document until there is no longer any such failure of such system to comply with such criteria, requirements, and other undertakings so prescribed.".

(c) Part A of title IV of such Act is amended by adding at the end thereof the following new section:

"TECHNICAL ASSISTANCE FOR DEVELOPING MANAGEMENT INFORMATION SYSTEMS

"SEC. 413. The Secretary shall provide such technical assistance to States as he determines necessary to assist States to plan, design, develop, or install and provide for the security of, the management information systems referred to in section 403(a)(3)(B) of this Act.". 42 USC 613. *Ante*, p. 465.

(d) The amendments made by this section shall be effective with respect to expenditures made during calendar quarters beginning on or after July 1, 1981. Effective date. 42 USC 613 note.

CHILD SUPPORT REPORTING AND MATCHING PROCEDURES

SEC. 407. (a) Section 455(b)(2) of the Social Security Act is amended by striking out "The Secretary" and inserting in lieu thereof "Subject to subsection (d), the Secretary". 42 USC 655.

(b) Section 455 of such Act is further amended by adding after subsection (c) (as added by section 404 of this Act) the following new subsection: *Ante*, p. 463.

"(d) Notwithstanding any other provision of law, no amount shall be paid to any State under this section for any quarter, prior to the close of such quarter, unless for the period consisting of all prior quarters for which payment is authorized to be made to such State under subsection (a), there shall have been submitted by the State to the Secretary, with respect to each quarter in such period (other than the last two quarters in such period), a full and complete report (in such form and manner and containing such information as the Secretary shall prescribe or require) as to the amount of child support collected and disbursed and all expenditures with respect to which payment is authorized under subsection (a).".

(c) Section 403(b)(2) of such Act is amended— 42 USC 603.

(1) by striking out "and" at the end of clause (A); and

(2) by adding immediately before the semicolon at the end of clause (B) the following: ", and (C) reduced by such amount as is necessary to provide the 'appropriate reimbursement of the Federal Government' that the State is required to make under

42 USC 657.

section 457 out of that portion of child support collections retained by it pursuant to such section".

Effective date.
42 USC 603 note.

(d) The amendments made by this section shall be effective in the case of calendar quarters commencing on or after January 1, 1981.

ACCESS TO WAGE INFORMATION FOR PURPOSES OF CARRYING OUT STATE PLANS FOR CHILD SUPPORT

SEC. 408. (a)(1) Subsection (l) of section 6103 of the Internal Revenue Code of 1954 (relating to disclosure of returns and return information for purposes other than tax administration) is amended by adding at the end thereof the following new paragraph:

26 USC 6103.

"(7) DISCLOSURE OF CERTAIN RETURN INFORMATION BY SOCIAL SECURITY ADMINISTRATION TO STATE AND LOCAL CHILD SUPPORT ENFORCEMENT AGENCIES.—

"(A) IN GENERAL.—Upon written request, the Commissioner of Social Security shall disclose directly to officers and employees of a State or local child support enforcement agency return information from returns with respect to net earnings from self-employment (as defined in section 1402), wages (as defined in section 3121(a) or 3401(a)), and payments of retirement income which have been disclosed to the Social Security Administration as provided by paragraph (1) or (5) of this subsection.

26 USC 1402.
26 USC 3121, 3401.

"(B) RESTRICTION ON DISCLOSURE.—The Commissioner of Social Security shall disclose return information under subparagraph (A) only for purposes of, and to the extent necessary in, establishing and collecting child support obligations from, and locating, individuals owing such obligations. For purposes of the preceding sentence, the term 'child support obligations' only includes obligations which are being enforced pursuant to a plan described in section 454 of the Social Security Act which has been approved by the Secretary of Health and Human Services under part D of title IV of such Act.

"Child support obligations."

42 USC 654.

42 USC 651.

"(C) STATE OR LOCAL CHILD SUPPORT ENFORCEMENT AGENCY.—For purposes of this paragraph, the term 'State or local child support enforcement agency' means any agency of a State or political subdivision thereof operating pursuant to a plan described in subparagraph (B)."

26 USC 6103.

(2)(A) Subparagraph (A) of section 6103(p)(3) of such Code (relating to records of inspection and disclosure) is amended by striking out "(l)(1) or (4)(B) or (5)" and inserting in lieu thereof "(l)(1), (4)(B), (5), or (7)".

(B) Paragraph (4) of section 6103(p) of such Code (relating to safeguards) is amended by striking out "(l)(3) or (6)" in so much of such paragraph as precedes subparagraph (A) thereof and inserting in lieu thereof "(l)(3), (6), or (7)".

(C) Clause (i) of section 6103(p)(4)(F) of such Code is amended by striking out "(l)(6)" and inserting in lieu thereof "(l)(6) or (7)".

(D) The first sentence of paragraph (2) of section 7213(a) of such Code is amended by striking out "subsection (d), (l)(6), or (m)(4)(B)" and inserting in lieu thereof "subsection (d), (l)(6) or (7), or (m)(4)(B)".

Effective date.
26 USC 6103 note.

(3) The amendments made by this subsection shall take effect on the date of the enactment of this Act.

42 USC 503.

(b)(1) Section 303 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(d)(1) The State agency charged with the administration of the State law—

"(A) shall disclose, upon request and on a reimbursable basis, directly to officers or employees of any State or local child support enforcement agency any wage information contained in the records of such State agency, and Wage information.

"(B) shall establish such safeguards as are necessary (as determined by the Secretary of Labor in regulations) to insure that information disclosed under subparagraph (A) is used only for purposes of establishing and collecting child support obligations from, and locating, individuals owing such obligations. Safeguards, establishment.

For purposes of the preceding sentence, the term 'child support obligations' only includes obligations which are being enforced pursuant to a plan described in section 454 of this Act which has been approved by the Secretary of Health and Human Services under part D of title IV of this Act. "Child support obligations." 42 USC 654. 42 USC 651.

"(2) Whenever the Secretary of Labor, after reasonable notice and opportunity for hearing to the State agency charged with the administration of the State law, finds that there is a failure to comply substantially with the requirements of paragraph (1), the Secretary of Labor shall notify such State agency that further payments will not be made to the State until he is satisfied that there is no longer any such failure. Until the Secretary of Labor is so satisfied, he shall make no further certification to the Secretary of the Treasury with respect to such State. Noncompliance of State agency.

"(3) For purposes of this subsection, the term 'State or local child support enforcement agency' means any agency of a State or political subdivision thereof operating pursuant to a plan described in the last sentence of paragraph (1)." Definition.

(2) Paragraph (2) of section 304(a) of the Social Security Act is amended by striking out "subsection (b) or (c)" and inserting in lieu thereof "subsection (b), (c), or (d)". 42 USC 504.

(3) The amendments made by this subsection shall take effect on July 1, 1980. Effective date. 42 USC 503 note.

TITLE V—OTHER PROVISIONS RELATING TO THE SOCIAL SECURITY ACT

RELATIONSHIP BETWEEN SOCIAL SECURITY AND SSI BENEFITS

SEC. 501. (a) Part A of title XI of the Social Security Act is amended by inserting immediately after section 1126 the following new section:

"ADJUSTMENT OF RETROACTIVE BENEFITS UNDER TITLE II ON ACCOUNT OF SUPPLEMENTAL SECURITY INCOME BENEFITS

"SEC. 1127. Notwithstanding any other provision of this Act, in any case where an individual— 42 USC 1320a-6.

"(1) makes application for benefits under title II and is subsequently determined to be entitled to those benefits, and 42 USC 401.

"(2) was an individual with respect to whom supplemental security income benefits were paid under title XVI (including State supplementary payments which were made under an agreement pursuant to section 1616(a) or an administration agreement under section 212 of Public Law 93-66) for one or more months during the period beginning with the first month 42 USC 1381. 42 USC 1382e. 87 Stat. 155.

for which a benefit described in paragraph (1) is payable and ending with the month before the first month in which such benefit is paid pursuant to the application referred to in paragraph (1),

the benefits (described in paragraph (1)) which are otherwise retroactively payable to such individual for months in the period described in paragraph (2) shall be reduced by an amount equal to so much of such supplemental security income benefits (including State supplementary payments) described in paragraph (2) for such month or months as would not have been paid with respect to such individual or his eligible spouse if the individual had received the benefits under title II at the times they were regularly due during such period rather than retroactively; and from the amount of such reduction the Secretary shall reimburse the State on behalf of which such supplementary payments were made for the amount (if any) by which such State's expenditures on account of such supplementary payments for the period involved exceeded the expenditures which the State would have made (for such period) if the individual had received the benefits under title II at the times they were regularly due during such period rather than retroactively. An amount equal to the portion of such reduction remaining after reimbursement of the State under the preceding sentence shall be covered into the general fund of the Treasury.".

42 USC 401.

(b) Section 204 of such Act is amended by adding at the end thereof the following new subsection:

42 USC 404.

"(e) For payments which are adjusted by reason of payment of benefits under the supplemental security income program established by title XVI, see section 1127.".

42 USC 1381.

(c) Section 1631(b) of such Act is amended—

Ante, p. 469.

(1) by inserting "(1)" immediately after "(b)", and

42 USC 1383.

(2) by adding at the end thereof the following new paragraph:

"(2) For payments for which adjustments are made by reason of a retroactive payment of benefits under title II, see section 1127.".

42 USC 401.

Ante, p. 469.

(d) The amendments made by this section shall be applicable in the case of payments of monthly insurance benefits under title II of the Social Security Act entitlement for which is determined on or after the first day of the thirteenth month which begins after the date of the enactment of this Act.

42 USC 1320a-6 note.

EXTENSION OF NATIONAL COMMISSION ON SOCIAL SECURITY

SEC. 502. (a) Section 361(a)(2)(F) of the Social Security Amendments of 1977 is amended by striking out "a term of two years" and inserting in lieu thereof "a term which shall end on April 1, 1981".

42 USC 907a.

(b) Section 361(c)(2) of the Social Security Amendments of 1977 is amended by striking out all that follows the semicolon and inserting in lieu thereof "and the Commission shall cease to exist on April 1, 1981.".

TIME FOR MAKING OF SOCIAL SECURITY CONTRIBUTIONS WITH RESPECT TO COVERED STATE AND LOCAL EMPLOYEES

SEC. 503. (a) Subparagraph (A) of section 218(e)(1) of the Social Security Act is amended to read as follows:

42 USC 418.

"(A) that the State will pay to the Secretary of the Treasury, within the thirty-day period immediately following the last day of each calendar month, amounts equivalent to the sum of the

taxes which would be imposed by sections 3101 and 3111 of the Internal Revenue Code of 1954 if the services for which wages were paid in such month to employees covered by the agreement constituted employment as defined in section 3121 of such Code; and". 26 USC 3101, 3111. 26 USC 3121.

(b) The amendment made by subsection (a) shall be effective with respect to the payment of taxes (referred to in section 218(e)(1)(A) of the Social Security Act, as amended by subsection (a)) on account of wages paid on or after July 1, 1980. Effective date. 42 USC 418 note. *Ante*, p. 470.

(c) The provisions of section 7 of Public Law 94-202 shall not be applicable to any regulation which becomes effective on or after July 1, 1980, and which is designed to carry out the purposes of subsection (a) of this section. 42 USC 405a. 42 USC 405a note.

ELIGIBILITY OF ALIENS FOR SSI BENEFITS

SEC. 504. (a) Section 1614(f) of the Social Security Act is amended by adding at the end thereof the following new paragraph: 42 USC 1382c.

"(3) For purposes of determining eligibility for and the amount of benefits for any individual who is an alien, such individual's income and resources shall be deemed to include the income and resources of his sponsor and such sponsor's spouse (if such alien has a sponsor) as provided in section 1621. Any such income deemed to be income of such individual shall be treated as unearned income of such individual.". *Infra.*

(b) Part A of title XVI of such Act is amended by adding at the end thereof (after the new section added by section 201(c) of this Act) the following new section: *Ante*, p. 445.

"ATTRIBUTION OF SPONSOR'S INCOME AND RESOURCES TO ALIENS

"SEC. 1621. (a) For purposes of determining eligibility for and the amount of benefits under this title for an individual who is an alien, the income and resources of any person who (as a sponsor of such individual's entry into the United States) executed an affidavit of support or similar agreement with respect to such individual, and the income and resources of the sponsor's spouse, shall be deemed to be the income and resources of such individual (in accordance with subsections (b) and (c)) for a period of three years after the individual's entry into the United States. Any such income deemed to be income of such individual shall be treated as unearned income of such individual. Eligibility determination for benefits. 42 USC 1382j.

"(b)(1) The amount of income of a sponsor (and his spouse) which shall be deemed to be the unearned income of an alien for any year shall be determined as follows:

"(A) The total yearly rate of earned and unearned income (as determined under section 1612(a)) of such sponsor and such sponsor's spouse (if such spouse is living with the sponsor) shall be determined for such year. *Ante*, p. 449.

"(B) The amount determined under subparagraph (A) shall be reduced by an amount equal to (i) the maximum amount of the Federal benefit under this title for such year which would be payable to an eligible individual who has no other income and who does not have an eligible spouse (as determined under section 1611(b)(1)), plus (ii) one-half of the amount determined under clause (i) multiplied by the number of individuals who are dependents of such sponsor (or such sponsor's spouse if such 42 USC 1382.

spouse is living with the sponsor), other than such alien and such alien's spouse.

"(C) The amount of income which shall be deemed to be unearned income of such alien shall be at a yearly rate equal to the amount determined under subparagraph (B). The period for determination of such amount shall be the same as the period for determination of benefits under section 1611(c).

42 USC 1382.

"(2) The amount of resources of a sponsor (and his spouse) which shall be deemed to be the resources of an alien for any year shall be determined as follows:

"(A) The total amount of the resources (as determined under section 1613) of such sponsor and such sponsor's spouse (if such spouse is living with the sponsor) shall be determined.

42 USC 1382b.

"(B) The amount determined under subparagraph (A) shall be reduced by an amount equal to (i) $1,500 in the case of a sponsor who has no spouse with whom he is living, or (ii) $2,250 in the case of a sponsor who has a spouse with whom he is living.

"(C) The resources of such sponsor (and spouse) as determined under subparagraphs (A) and (B) shall be deemed to be resources of such alien in addition to any resources of such alien.

"(c) In determining the amount of income of an alien during the period of three years after such alien's entry into the United States, the reduction in dollar amounts otherwise required under section 1612(a)(2)(A)(i) shall not be applicable if such alien is living in the household of a person who is a sponsor (or such sponsor's spouse) of such alien, and is receiving support and maintenance in kind from such sponsor (or spouse), nor shall support or maintenance furnished in cash or kind to an alien by such alien's sponsor (to the extent that it reflects income or resources which were taken into account in determining the amount of income and resources to be deemed to the alien under subsection (a) or (b)) be considered to be income of such alien under section 1612(a)(2)(A).

42 USC 1382a.

Information and documentation respecting sponsor.

"(d)(1) Any individual who is an alien shall, during the period of three years after entry into the United States, in order to be an eligible individual or eligible spouse for purposes of this title, be required to provide to the Secretary such information and documentation with respect to his sponsor as may be necessary in order for the Secretary to make any determination required under this section, and to obtain any cooperation from such sponsor necessary for any such determination. Such alien shall also be required to provide to the Secretary such information and documentation as the Secretary may request and which such alien or his sponsor provided in support of such alien's immigration application.

"(2) The Secretary shall enter into agreements with the Secretary of State and the Attorney General whereby any information available to such persons and required in order to make any determination under this section will be provided by such persons to the Secretary, and whereby such persons shall inform any sponsor of an alien, at the time such sponsor executes an affidavit of support or similar agreement, of the requirements imposed by this section.

Sponsor and alien, liability for overpayment.

"(e) Any sponsor of an alien, and such alien, shall be jointly and severably liable for an amount equal to any overpayment made to such alien during the period of three years after such alien's entry into the United States, on account of such sponsor's failure to provide correct information under the provisions of this section, except where such sponsor was without fault, or where good cause for such failure existed. Any such overpayment which is not repaid to the Secretary

or recovered in accordance with section 1631(b) shall be withheld from any subsequent payment to which such alien or such sponsor is entitled under any provision of this Act. *Ante*, p. 470.

"(f)(1) The provisions of this section shall not apply with respect to any individual who is an 'aged, blind, or disabled individual' for purposes of this title by reason of blindness (as determined under section 1614(a)(2)) or disability (as determined under section 1614(a)(3)), from and after the onset of the impairment, if such blindness or disability commenced after the date of such individual's admission into the United States for permanent residence. Aged, blind, or disabled individual, nonapplicability. 42 USC 1382c.

"(2) The provisions of this section shall not apply with respect to any alien who is—

"(A) admitted to the United States as a result of the application, prior to April 1, 1980, of the provisions of section 203(a)(7) of the Immigration and Nationality Act; 8 USC 1153.

"(B) admitted to the United States as a result of the application, after March 31, 1980, of the provisions of section 207(c)(1) of such Act; *Ante*, p. 103.

"(C) paroled into the United States as a refugee under section 212(d)(5) of such Act; or *Ante*, p. 107.

"(D) granted political asylum by the Attorney General.".

(c) The amendments made by this section shall be effective with respect to individuals applying for supplemental security income benefits under title XVI of the Social Security Act for the first time after September 30, 1980. Effective date. 42 USC 1382j note. 42 USC 1381.

AUTHORITY FOR DEMONSTRATION PROJECTS

SEC. 505. (a)(1) The Secretary of Health and Human Services shall develop and carry out experiments and demonstration projects designed to determine the relative advantages and disadvantages of (A) various alternative methods of treating the work activity of disabled beneficiaries under the old-age, survivors, and disability insurance program, including such methods as a reduction in benefits based on earnings, designed to encourage the return to work of disabled beneficiaries and (B) altering other limitations and conditions applicable to such disabled beneficiaries (including, but not limited to, lengthening the trial work period, altering the 24-month waiting period for medicare benefits, altering the manner in which such program is administered, earlier referral of beneficiaries for rehabilitation, and greater use of employers and others to develop, perform, and otherwise stimulate new forms of rehabilitation), to the end that savings will accrue to the Trust Funds, or to otherwise promote the objectives or facilitate the administration of title II of the Social Security Act. 42 USC 1310 note. 42 USC 401.

(2) The experiments and demonstration projects developed under paragraph (1) shall be of sufficient scope and shall be carried out on a wide enough scale to permit a thorough evaluation of the alternative methods under consideration while giving assurance that the results derived from the experiments and projects will obtain generally in the operation of the disability insurance program without committing such program to the adoption of any particular system either locally or nationally.

(3) In the case of any experiment or demonstration project under paragraph (1), the Secretary may waive compliance with the benefit requirements of titles II and XVIII of the Social Security Act insofar as is necessary for a thorough evaluation of the alternative methods 42 USC 401, 1395.

under consideration. No such experiment or project shall be actually placed in operation unless at least ninety days prior thereto a written report, prepared for purposes of notification and information only and containing a full and complete description thereof, has been transmitted by the Secretary to the Committee on Ways and Means of the House of Representatives and to the Committee on Finance of the Senate. Periodic reports on the progress of such experiments and demonstration projects shall be submitted by the Secretary to such committees. When appropriate, such reports shall include detailed recommendations for changes in administration or law, or both, to carry out the objectives stated in paragraph (1).

Report to Congress.

(4) The Secretary shall submit to the Congress no later than January 1, 1983, a report on the experiments and demonstration projects with respect to work incentives carried out under this subsection together with any related data and materials which he may consider appropriate.

42 USC 401.

(5) Section 201 of the Social Security Act is amended by adding at the end thereof (after the new subsection added by section 310(a) of this Act) the following new subsection:

Ante, p. 459.

"(k) Expenditures made for experiments and demonstration projects under section 505(a) of the Social Security Disability Amendments of 1980 shall be made from the Federal Disability Insurance Trust Fund and the Federal Old-Age and Survivors Insurance Trust Fund, as determined appropriate by the Secretary.".

Ante, p. 473.

42 USC 1310.

(b) Section 1110 of the Social Security Act is amended—

(1) by inserting "(1)" after "SEC. 1110. (a)";

(2) by striking out "for (1)" and "(2)" and inserting in lieu thereof "for (A)" and "(B)", respectively;

(3) by redesignating subsections (b) and (c) as paragraphs (2) and (3), respectively;

(4) by striking out "under subsection (a)" each place it appears and inserting in lieu thereof "under paragraph (1)";

(5) by striking out "purposes of this section" and inserting in lieu thereof "purposes of this subsection"; and

(6) by adding at the end thereof the following new subsection:

Waiver.
42 USC 1381.

"(b)(1) The Secretary is authorized to waive any of the requirements, conditions, or limitations of title XVI (or to waive them only for specified purposes, or to impose additional requirements, conditions, or limitations) to such extent and for such period as he finds necessary to carry out one or more experimental, pilot, or demonstration projects which, in his judgment, are likely to assist in promoting the objectives or facilitate the administration of such title. Any costs for benefits under or administration of any such project (including planning for the project and the review and evaluation of the project and its results), in excess of those that would have been incurred without regard to the project, shall be met by the Secretary from amounts available to him for this purpose from appropriations made to carry out such title. The costs of any such project which is carried out in coordination with one or more related projects under other titles of this Act shall be allocated among the appropriations available for such projects and any Trust Funds involved, in a manner determined by the Secretary, taking into consideration the programs (or types of benefit) to which the project (or part of a project) is most closely related or which the project (or part of a project) is intended to benefit. If, in order to carry out a project under this subsection, the Secretary requests a State to make supplementary payments (or makes them himself pursuant to an agreement under section 1616),

42 USC 1382e.

or to provide medical assistance under its plan approved under title XIX, to individuals who are not eligible therefor, or in amounts or under circumstances in which the State does not make such payments or provide such medical assistance, the Secretary shall reimburse such State for the non-Federal share of such payments or assistance from amounts appropriated to carry out title XVI. 42 USC 1396. 42 USC 1381.

"(2) With respect to the participation of recipients of supplemental security income benefits in experimental, pilot, or demonstration projects under this subsection—

"(A) the Secretary is not authorized to carry out any project that would result in a substantial reduction in any individual's total income and resources as a result of his or her participation in the project;

"(B) the Secretary may not require any individual to participate in a project; and he shall assure (i) that the voluntary participation of individuals in any project is obtained through informed written consent which satisfies the requirements for informed consent established by the Secretary for use in any experimental, pilot, or demonstration project in which human subjects are at risk, and (ii) that any individual's voluntary agreement to participate in any project may be revoked by such individual at any time;

"(C) the Secretary shall, to the extent feasible and appropriate, include recipients who are under age 18 as well as adult recipients; and

"(D) the Secretary shall include in the projects carried out under this section such experimental, pilot, or demonstration projects as may be necessary to ascertain the feasibility of treating alcoholics and drug addicts to prevent the onset of irreversible medical conditions which may result in permanent disability, including programs in residential care treatment centers.".

(c) The Secretary shall submit to the Congress a final report with respect to all experiments and demonstration projects carried out under this section no later than five years after the date of the enactment of this Act. Report to Congress. 42 USC 1310 note.

ADDITIONAL FUNDS FOR DEMONSTRATION PROJECT RELATING TO THE TERMINALLY ILL

SEC. 506. (a) The Secretary of Health and Human Services is authorized to provide for the participation, by the Social Security Administration, in a demonstration project relating to the terminally ill which is currently being conducted within the Department of Health and Human Services. The purpose of such participation shall be to study the impact on the terminally ill of provisions of the disability programs administered by the Social Security Administration and to determine how best to provide services needed by persons who are terminally ill through programs over which the Social Security Administration has administrative responsibility. 42 USC 1395*ll* note.

(b) For the purpose of carrying out this section there are authorized to be appropriated such sums (not in excess of $2,000,000 for any fiscal year) as may be necessary. Appropriation authorization.

VOLUNTARY CERTIFICATION OF MEDICARE SUPPLEMENTAL HEALTH INSURANCE POLICIES

SEC. 507. (a) Title XVIII of the Social Security Act is amended by adding at the end thereof the following new section:

"VOLUNTARY CERTIFICATION OF MEDICARE SUPPLEMENTAL HEALTH INSURANCE POLICIES

42 USC 1395ss.

"SEC. 1882. (a) The Secretary shall establish a procedure whereby medicare supplemental policies (as defined in subsection (g)(1)) may be certified by the Secretary as meeting minimum standards and requirements set forth in subsection (c). Such procedure shall provide an opportunity for any insurer to submit any such policy, and such additional data as the Secretary finds necessary, to the Secretary for his examination and for his certification thereof as meeting the standards and requirements set forth in subsection (c). Such certification shall remain in effect if the insurer files a notarized statement with the Secretary no later than June 30 of each year stating that the policy continues to meet such standards and requirements and if the insurer submits such additional data as the Secretary finds necessary to independently verify the accuracy of such notarized statement. Where the Secretary determines such a policy meets (or continues to meet) such standards and requirements, he shall authorize the insurer to have printed on such policy (but only in accordance with such requirements and conditions as the Secretary may prescribe) an emblem which the Secretary shall cause to be designed for use as an indication that a policy has received the Secretary's certification. The Secretary shall provide each State commissioner or superintendent of insurance with a list of all the policies which have received his certification.

Emblem.

List of certified policies.

State regulatory program, standards and requirements.

"(b)(1) Any medicare supplemental policy issued in any State which the Supplemental Health Insurance Panel (established under paragraph (2)) determines has established under State law a regulatory program that—

"(A) provides for the application of standards with respect to such policies equal to or more stringent than the NAIC Model Standards (as defined in subsection (g)(2)(A));

"(B) includes a requirement equal to or more stringent than the requirement described in subsection (c)(2); and

"(C) provides for application of the standards and requirements described in subparagraphs (A) and (B) to all medicare supplemental policies (as defined in subsection (g)(1)) issued in such State,

shall be deemed (for so long as the Panel finds that such State regulatory program continues to meet the standards and requirements of this paragraph) to meet the standards and requirements set forth in subsection (c).

Supplemental Health Insurance Panel, establishment.

"(2)(A) There is hereby established a panel (hereinafter in this section referred to as the 'Panel') to be known as the Supplemental Health Insurance Panel. The Panel shall consist of the Secretary, who shall serve as the Chairman, and four State commissioners or superintendents of insurance, who shall be appointed by the President and serve at his pleasure. Such members shall first be appointed not later than December 31, 1980.

Quorum.

"(B) A majority of the members of the Panel shall constitute a quorum, but a lesser number may conduct hearings.

"(C) The Secretary shall provide such technical, secretarial, clerical, and other assistance as the Panel may require.

"(D) There are authorized to be appropriated such sums as may be necessary to carry out this paragraph. Appropriation authorization.

"(E) Members of the Panel shall be allowed, while away from their homes or regular places of business in the performance of services for the Panel, travel expenses (including per diem in lieu of subsistence) in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5, United States Code. Travel expenses.

"(c) The Secretary shall certify under this section any medicare supplemental policy, or continue certification of such a policy, only if he finds that such policy— Medicare supplemental policy, certification criteria.

"(1) meets or exceeds (either in a single policy or, in the case of nonprofit hospital and medical service associations, in one or more policies issued in conjunction with one another) the NAIC Model Standards; and

"(2) can be expected (as estimated for the entire period for which rates are computed to provide coverage, on the basis of incurred claims experience and earned premiums for such period and in accordance with accepted actuarial principles and practices) to return to policyholders in the form of aggregate benefits provided under the policy, at least 75 percent of the aggregate amount of premiums collected in the case of group policies and at least 60 percent of the aggregate amount of premiums collected in the case of individual policies.

For purposes of paragraph (2), policies issued as a result of solicitations of individuals through the mails or by mass media advertising (including both print and broadcast advertising) shall be deemed to be individual policies. Individual policies.

"(d)(1) Whoever knowingly or willfully makes or causes to be made or induces or seeks to induce the making of any false statement or representation of a material fact with respect to the compliance of any policy with the standards and requirements set forth in subsection (c) or in regulations promulgated pursuant to such subsection, or with respect to the use of the emblem designed by the Secretary under subsection (a), shall be guilty of a felony and upon conviction thereof shall be fined not more than $25,000 or imprisoned for not more than 5 years, or both. False statement or representation, penalties and fines.

"(2) Whoever falsely assumes or pretends to be acting, or misrepresents in any way that he is acting, under the authority of or in association with, the program of health insurance established by this title, or any Federal agency, for the purpose of selling or attempting to sell insurance, or in such pretended character demands, or obtains money, paper, documents, or anything of value, shall be guilty of a felony and upon conviction thereof shall be fined not more than $25,000 or imprisoned for not more than 5 years, or both.

"(3)(A) Whoever knowingly sells a health insurance policy to an individual entitled to benefits under part A or enrolled under part B of this title, with knowledge that such policy substantially duplicates health benefits to which such individual is otherwise entitled, other than benefits to which he is entitled under a requirement of State or Federal law (other than this title), shall be guilty of a felony and upon conviction thereof shall be fined not more than $25,000 or imprisoned for not more than 5 years, or both. 42 USC 1395c, 1395j.

"(B) For purposes of this paragraph, benefits which are payable to or on behalf of an individual without regard to other health benefit coverage of such individual, shall not be considered as duplicative.

"(C) Subparagraph (A) shall not apply with respect to the selling of a group policy or plan of one or more employers or labor organizations, or of the trustees of a fund established by one or more employers or labor organizations (or combination thereof), for employees or former employees (or combination thereof) or for members or former members (or combination thereof) of the labor organizations.

Policies mailed for prohibited purpose.

"(4)(A) Whoever knowingly, directly or through his agent, mails or causes to be mailed any matter for a prohibited purpose (as determined under subparagraph (B)) shall be guilty of a felony and upon conviction thereof shall be fined not more than $25,000 or imprisoned for not more than 5 years, or both.

Definition.

"(B) For purposes of subparagraph (A), a prohibited purpose means the advertising, solicitation, or offer for sale of a medicare supplemental policy, or the delivery of such a policy, in or into any State in which such policy has not been approved by the State commissioner or superintendent of insurance. For purposes of this paragraph, a medicare supplemental policy shall be deemed to be approved by the commissioner or superintendent of insurance of a State if—

"(i) the policy has been certified by the Secretary pursuant to subsection (c) or was issued in a State with an approved regulatory program (as defined in subsection (g)(2)(B));

"(ii) the policy has been approved by the commissioners or superintendents of insurance in States in which more than 30 percent of such policies are sold; or

"(iii) the State has in effect a law which the commissioner or superintendent of insurance of the State has determined gives him the authority to review, and to approve, or effectively bar from sale in the State, such policy;

except that such a policy shall not be deemed to be approved by a State commissioner or superintendent of insurance if the State notifies the Secretary that such policy has been submitted for approval to the State and has been specifically disapproved by such State after providing appropriate notice and opportunity for hearing pursuant to the procedures (if any) of the State.

Exceptions.

"(C) Subparagraph (A) shall not apply in the case of a person who mails or causes to be mailed a medicare supplemental policy into a State if such person has ascertained that the party insured under such policy to whom (or on whose behalf) such policy is mailed is located in such State on a temporary basis.

"(D) Subparagraph (A) shall not apply in the case of a person who mails or causes to be mailed a duplicate copy of a medicare supplemental policy previously issued to the party to whom (or on whose behalf) such duplicate copy is mailed, if such policy expires not more than 12 months after the date on which the duplicate copy is mailed.

Benefit information.

"(e) The Secretary shall provide to all individuals entitled to benefits under this title (and, to the extent feasible, to individuals about to become so entitled) such information as will permit such individuals to evaluate the value of medicare supplemental policies to them and the relationship of any such policies to benefits provided under this title.

State regulatory programs, study and evaluation.

"(f)(1)(A) The Secretary shall, in consultation with Federal and State regulatory agencies, the National Association of Insurance Commissioners, private insurers, and organizations representing

consumers and the aged, conduct a comprehensive study and evaluation of the comparative effectiveness of various State approaches to the regulation of medicare supplemental policies in (i) limiting marketing and agent abuse, (ii) assuring the dissemination of such information to individuals entitled to benefits under this title (and to other consumers) as is necessary to permit informed choice, (iii) promoting policies which provide reasonable economic benefits for such individuals, (iv) reducing the purchase of unnecessary duplicative coverage, (v) improving price competition, and (vi) establishing effective approved State regulatory programs described in subsection (b).

"(B) Such study shall also address the need for standards or certification of health insurance policies, other than medicare supplemental policies, sold to individuals eligible for benefits under this title.

"(C) The Secretary shall, no later than January 1, 1982, submit a report to the Congress on the results of such study and evaluation, accompanied by such recommendations as the Secretary finds warranted by such results with respect to the need for legislative or administrative changes to accomplish the objectives set forth in subparagraphs (A) and (B), including the need for a mandatory Federal regulatory program to assure the marketing of appropriate types of medicare supplemental policies, and such other means as he finds may be appropriate to enhance effective State regulation of such policies. Report to Congress.

"(2) The Secretary shall submit to the Congress no later than July 1, 1982, and periodically as may be appropriate thereafter (but not less often than once every 2 years), a report evaluating the effectiveness of the certification procedure and the criminal penalties established under this section, and shall include in such reports an analysis of— Report to Congress.

"(A) the impact of such procedure and penalties on the types, market share, value, and cost to individuals entitled to benefits under this title of medicare supplemental policies which have been certified by the Secretary;

"(B) the need for any change in the certification procedure to improve its administration or effectiveness; and

"(C) whether the certification program and criminal penalties should be continued.

"(g)(1) For purposes of this section, a medicare supplemental policy is a health insurance policy or other health benefit plan offered by a private entity to individuals who are entitled to have payment made under this title, which provides reimbursement for expenses incurred for services and items for which payment may be made under this title but which are not reimbursable by reason of the applicability of deductibles, coinsurance amounts, or other limitations imposed pursuant to this title; but does not include any such policy or plan of one or more employers or labor organizations, or of the trustees of a fund established by one or more employers or labor organizations (or combination thereof), for employees or former employees (or combination thereof) or for members or former members (or combination thereof) of the labor organizations. For purposes of this section, the term 'policy' includes a certificate issued under such policy. Medicare supplemental policy, definition. "Policy."

"(2) For purposes of this section: "NAIC Model Standards."

"(A) The term 'NAIC Model Standards' means the 'NAIC Model Regulation to Implement the Individual Accident and Sickness Insurance Minimum Standards Act', adopted by the

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National Association of Insurance Commissioners on June 6, 1979, as it applies to medicare supplement policies.

Definition.

"(B) The term 'State with an approved regulatory program' means a State for which the Panel has made a determination under subsection (b)(1).

"(C) The State in which a policy is issued means—

"(i) in the case of an individual policy, the State in which the policyholder resides; and

"(ii) in the case of a group policy, the State in which the holder of the master policy resides.

Regulations.

"(h) The Secretary shall prescribe such regulations as may be necessary for the effective, efficient, and equitable administration of the certification procedure established under this section. The Secretary shall first issue final regulations to implement the certification procedure established under subsection (a) not later than March 1, 1981.

Emblem usage, effective date.

"(i)(1) No medicare supplemental policy shall be certified and no such policy may be issued bearing the emblem authorized by the Secretary under subsection (a) until July 1, 1982. On and after such date policies certified by the Secretary may bear such emblem, including policies which were issued prior to such date and were subsequently certified, and insurers may notify holders of such certified policies issued prior to such date using such emblem in the notification.

"(2)(A) The Secretary shall not implement the certification program established under subsection (a) with respect to policies issued in a State unless the Panel makes a finding that such State cannot be expected to have established, by July 1, 1982, an approved State regulatory program meeting the standards and requirements of subsection (b)(1). If the Panel makes such a finding, the Secretary shall implement such program under subsection (a) with respect to medicare supplemental policies issued in such State, until such time as the Panel determines that such State has a program that meets the standards and requirements of subsection (b)(1).

Panel findings, transmittal to congressional committees; effective date.

"(B) Any finding by the Panel under subparagraph (A) shall be transmitted in writing, not later than January 1, 1982, to the Committee on Finance of the Senate and to the Committee on Interstate and Foreign Commerce and the Committee on Ways and Means of the House of Representatives and shall not become effective until 60 days after the date of its transmittal to the Committees of the Congress under this subparagraph. In counting such days, days on which either House is not in session because of an adjournment sine die or an adjournment of more than three days to a day certain are excluded in the computation.

"(j) Nothing in this section shall be construed so as to affect the right of any State to regulate medicare supplemental policies which, under the provisions of this section, are considered to be issued in another State.".

(b) The amendment made by this section shall become effective on the date of the enactment of this Act, except that the provisions of paragraph (4) of section 1882(d) of the Social Security Act (as added by this section) shall become effective on July 1, 1982.

Effective date.
42 USC 1395ss note.

Ante, p. 476.

Approved June 9, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 96-100 (Comm. on Ways and Means) and No. 96-944 (Comm. of Conference).
SENATE REPORT No. 96-408 (Comm. on Finance).
CONGRESSIONAL RECORD:
Vol. 125 (1979): Sept. 6, considered and passed House.
Dec. 5, considered in Senate.
Vol. 126 (1980): Jan. 30, 31, considered and passed Senate, amended.
May 22, House agreed to conference report.
May 29, Senate agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:
Vol. 16, No. 24 (1980): June 9, Presidential statement.

Public Law 96-266
96th Congress

Joint Resolution

June 9, 1980
[H.J. Res. 445]

To provide for designation of the week of September 21-27, 1980, as "National Cystic Fibrosis Week".

Whereas cystic fibrosis is the number one genetic killer of children in America, and between one thousand five hundred and two thousand five hundred are born each year in this country with the disease; and

Whereas public understanding of cystic fibrosis is essential to enhance early detection and treatment of the disease and reduce the misunderstanding and confusion concerning the symptoms of cystic fibrosis; and

Whereas a national awareness of the cystic fibrosis problem will stimulate interest and concern leading to increased research and eventually a cure for cystic fibrosis: Now, therefore, be it

National Cystic Fibrosis Week. Designation.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of September 21-27, 1980, is designated as "National Cystic Fibrosis Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe that week with appropriate ceremonies and activities.

Approved June 9, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-793 (Comm. on Post Office and Civil Service).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Mar. 3, considered and passed House.
May 28, considered and passed Senate in lieu of S.J. Res. 152.

Public Law 96-267
96th Congress

An Act

June 9, 1980
[H.R.. 6727]

To establish the Bon Secour National Wildlife Refuge.

Bon Secour National Wildlife Refuge, establishment.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

CONGRESSIONAL FINDINGS

16 USC 668dd note.

SECTION 1. The Congress finds that—

(1) Alabama's shore near the mouth of Mobile Bay contains highly significant and varied wildlife habitat and supports important aquatic nurseries;

(2) the area is a critical resting and feeding site for birds of two flyways on their pilgrimages to and from Central and South America;

(3) nationally endangered and threatened species, such as the brown pelican, bald eagle, and several species of sea turtles, as well as many more species identified by the State to be of special concern, are indigenous to this ecosystem;

(4) this habitat should be preserved to ensure the well-being of these and other species, to serve as a living laboratory for scientists and students and to provide wildlife-oriented recreation for the public.

DEFINITIONS

SEC. 2. For purposes of this Act—

(1) the term "refuge" means the Bon Secour National Wildlife Refuge;

(2) the term "Secretary" means the Secretary of the Interior; and

(3) the term "selection area" means those lands and waters in Baldwin and Mobile Counties, Alabama, depicted on the map entitled "Bon Secour National Wildlife Refuge, Selection Area," dated March, 1980 and on file at the United States Fish and Wildlife Service.

ESTABLISHMENT OF REFUGE

SEC. 3. (a) SELECTION.—(1) Within one year after the date of the enactment of this Act the Secretary shall—

(A) designate approximately ten thousand acres of land and water within the selection area as land which the Secretary considers appropriate for the refuge; and

(B) publish in the Federal Register a detailed map depicting the boundaries of the land designated under subparagraph (A), which map shall be on file and available for public inspection at offices of the United States Fish and Wildlife Service.

Publication in Federal Register.

(2) The Secretary may make such minor revisions in the boundaries designated under paragraph 1(B) of this subsection as may be appropriate to carry out the purpose of this Act or to facilitate the acquisition of property within the refuge.

(b) ACQUISITION.—The Secretary shall acquire (by donation, purchase with donated or appropriated funds, or exchange) lands, waters, or interests therein, within the boundaries designated under subsection (a)(1)(B).

Publication in Federal Register.

(c) ESTABLISHMENT.—The Secretary shall establish the Bon Secour National Wildlife Refuge, by publication of a notice to that effect in the Federal Register, whenever sufficient property has been acquired under this section to constitute an area that can be effectively managed as a refuge.

ADMINISTRATION

SEC. 4. The Secretary shall administer all lands, waters, and interests therein, acquired under this Act in accordance with the provisions of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd-668ee) to conserve an undisturbed beach-dune ecosystem which includes a diversity of fish and wildlife, and their habitat. The Secretary may utilize such additional statutory authority as may be available to him for the conservation and development of wildlife and natural resources, the development of outdoor recreation opportunities, and interpretive education as he deems appropriate to carry out the purposes of the refuge.

Appropriation authorization.

SEC. 5. There is authorized to be appropriated to the Department of the Interior, not to exceed—

(1) $6,000,000 for the fiscal year beginning October 1, 1980, and ending September 30, 1981, $8,000,000 for the period beginning October 1, 1981, and ending September 30, 1983, and $9,500,000 for the period beginning October 1, 1983 and ending September 30, 1985, for the acquisition of the refuge; and

(2) $1,500,000 for the period beginning October 1, 1980, for the development of the refuge.

These sums are to remain available until expended.

Approved June 9, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-895 (Comm. on Merchant Marine and Fisheries).
SENATE REPORT No. 96-740 (Comm. on Environment and Public Works).
CONGRESSIONAL RECORD, Vol. 126 (1980):
May 5, considered and passed House.
May 22, considered and passed Senate.

Public Law 96-268
96th Congress

An Act

June 13, 1980
[S. 1786]

To amend the Act of October 15, 1966 (80 Stat. 953; 20 U.S.C. 65a), relating to the National Museum of the Smithsonian Institution, so as to authorize additional appropriations to the Smithsonian Institution for carrying out the purposes of said Act.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2(b) of the National Museum Act of 1966 (20 U.S.C. 65a) is amended to read:

Smithsonian Institution.
Appropriation authorization.

"(b) There are hereby authorized to be appropriated to the Smithsonian Institution for the fiscal year 1981, the sum of $803,000, and for the fiscal year 1982, the sum of $1,000,000.".

Approved June 13, 1980.

LEGISLATIVE HISTORY:

SENATE REPORT No. 96-646 (Comm. on Rules and Administration).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Apr. 1, considered and passed Senate.
June 3, 4, considered and passed House.

Public Law 96-269
96th Congress

An Act

June 13, 1980
[S. 2517]

To rename certain buildings of the Library of Congress.

Library of Congress Thomas Jefferson Building, designation.
2 USC 141 note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the building in the block bounded by East Capitol Street, Second Street Southeast, Independence Avenue Southeast, and First Street Southeast, in the District of Columbia (commonly known as the Library of Congress Building or the Library of Congress Main Building), shall hereafter be known and designated as the "Library of Congress Thomas Jefferson Building". Any reference in any law, map, regulation, document, record, or other paper of the United States to such building shall be held to be a reference to the Library of Congress Thomas Jefferson Building.

Library of Congress John Adams Building, designation.
2 USC 141 note.

SEC. 2. The building in the block bounded by East Capitol Street, Second Street Southeast, Third Street Southeast, and Pennsylvania Avenue Southeast, in the District of Columbia (commonly known as the Library of Congress Thomas Jefferson Building or the Library of Congress Annex Building), shall hereafter be known and designated as the "Library of Congress John Adams Building". Any reference in any law, map, regulation, document, record, or other paper of the United States to such building shall be held to be a reference to the Library of Congress John Adams Building.

Repeal.
2 USC 141 note.

SEC. 3. The Act entitled "An Act to name the building known as the Library of Congress Annex to be the Library of Congress Thomas Jefferson Building", approved April 13, 1976 (90 Stat. 329), is hereby repealed.

Approved June 13, 1980.

LEGISLATIVE HISTORY:

SENATE REPORT No. 96-686 (Comm. on Rules and Administration).
CONGRESSIONAL RECORD, Vol. 126 (1980):
May 14, considered and passed Senate.
June 3, considered and passed House.

Public Law 96-270
96th Congress

An Act

To establish a program for the inspection of schools to detect the presence of hazardous asbestos materials, to provide loans to States or local educational agencies to contain or remove hazardous asbestos materials from schools and to replace such materials with other suitable building materials, and for other purposes.

June 14, 1980
[S. 1658]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Asbestos School Hazard Detection and Control Act of 1980.
20 USC 3601 note.

SHORT TITLE

SECTION 1. This Act may be cited as the "Asbestos School Hazard Detection and Control Act of 1980".

FINDINGS AND PURPOSES

20 USC 3601.

SEC. 2. (a) The Congress finds that—

(1) exposure to asbestos fibers has been identified over a long period of time and by reputable medical and scientific evidence as significantly increasing the incidence of cancer and other severe or fatal diseases, such as asbestosis;

(2) medical evidence has suggested that children may be particularly vulnerable to environmentally induced cancers;

(3) medical science has not established any minimum level of exposure to asbestos fibers which is considered to be safe to individuals exposed to the fibers;

(4) substantial amounts of asbestos, particularly in sprayed form, have been used in school buildings, especially during the period 1946 through 1972;

(5) partial surveys in some States have indicated that (A) in a number of school buildings materials containing asbestos fibers have become damaged or friable, causing asbestos fibers to be dislodged into the air, and (B) asbestos concentrations far exceeding normal ambient air levels have been found in school buildings containing such damaged materials;

(6) the presence in school buildings of friable or easily damaged asbestos creates an unwarranted hazard to the health of the school children and school employees who are exposed to such materials;

(7) the Department of Health and Human Services and the Environmental Protection Agency, as well as several States, have attempted to publicize the potential hazards to school children and employees from exposure to asbestos fibers, but there is no systematic program for identifying hazardous conditions in schools or for remedying those conditions;

(8) because there is no Federal health standard regulating the concentration of asbestos fibers in noncommercial workplace environments such as schools, school employees and students

may be exposed to hazardous concentrations of asbestos fibers in the school buildings which they use each day;

(9) without an improved program of information distribution, technical and scientific assistance, and financial support, many local educational agencies and States will not be able to mitigate the potential asbestos hazards in their schools; and

(10) the effective regulation of interstate commerce for the protection of the public health requires the establishment of programs under this Act to identify and mitigate hazards from exposure to asbestos fibers and materials emitting such fibers.

(b) It is the purpose of this Act to—

(1) direct the Secretary of Education to establish a task force to assist States and local educational agencies to ascertain the extent of the danger to the health of school children and employees from asbestos materials in schools;

(2) require States receiving administrative funds for any applicable program (as defined under section 400(c)(1)(A) of the General Education Provisions Act) to prepare a plan describing the manner in which information relating to programs established under this Act shall be distributed to local educational agencies;

20 USC 1221.

(3) provide scientific, technical, and financial assistance to State educational agencies and local educational agencies to enable them to conduct an asbestos detection program to identify asbestos hazards in schools;

(4) provide loans to local educational agencies for the mitigation of asbestos hazards which constitute an imminent hazard to the health and safety of school children and employees; and

(5) assure that no employee of any local educational agency suffers any disciplinary action as a result of calling attention to potential asbestos hazards which may exist in schools.

TASK FORCE

20 USC 3602.

SEC. 3. (a)(1) There is established a task force to be known as the Asbestos Hazards School Safety Task Force (hereinafter in this Act referred to as "Task Force"). The Task Force shall be composed of ten members, who shall be appointed by the Secretary within 30 days after the effective date of this Act, as follows:

Members.

(A) One representative of the Department of Education, recommended by the Secretary of Education.

(B) One representative of the Department of Health and Human Services.

(C) One representative of the National Cancer Institute.

(D) One representative of the Environmental Protection Agency, recommended by the Administrator of such agency.

(E) One representative of the National Institute of Environmental Health Sciences.

(F) One representative of the Occupational Safety and Health Administration, recommended by the Secretary of Labor.

(G) Four representatives from among organizations concerned with education and health.

Members of the Task Force shall be individuals who have knowledge of the medical problems associated with exposure to asbestos, or individuals who are familiar with procedures for the following activities: the containment or removal of asbestos from buildings; the replacement of asbestos materials removed from school buildings with other appropriate building materials; and the restoration of

such buildings to conditions comparable to those existing before such containment or removal was carried out.

(2) The Secretary shall designate a chairman of the Task Force from among its members. Chairman.

(3) Members shall be appointed for the life of the Task Force. Any vacancy in the Task Force shall be filled in the same manner in which the original appointment was made.

(b)(1) The Task Force shall meet, no later than 30 days after the appointment of its members, at the call of the chairman of the Task Force.

(2) Five members of the Task Force shall constitute a quorum for purposes of conducting the business of the Task Force, but a lesser number may hold hearings. Quorum.

(c)(1) Members of the Task Force who are not full-time officers or employees of the Federal Government shall receive compensation at a rate determined by the Secretary, but not to exceed the daily equivalent of the maximum annual rate of pay in effect for grade GS-16 of the General Schedule, for each day (including traveltime) during which they are engaged in the performance of the duties of the Task Force. Compensation. 44 FR 58671.

(2) While away from their homes or regular places of business in the performance of the duties of the Task Force, all members of the Task Force shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5, United States Code. Travel expenses.

(d)(1) Upon request of the Task Force, the Secretary shall make available to the Task Force personnel of the Department of Education to assist the Task Force in carrying out its duties.

(2) The Task Force may use the United States mails in the same manner and upon the same conditions as other departments and agencies of the United States.

(e) The duties of the Task Force shall include— Duties.

(1) the compilation of medical, scientific, and technical information explaining—

(A) the health and safety hazards associated with asbestos materials; and

(B) the means of identifying, sampling, and testing materials suspected of emitting asbestos fibers;

(2) the distribution of the information described in paragraph (1) (in any appropriate form such as pamphlets, reports, or instructions) to State educational agencies and to local educational agencies for the purpose of assisting such agencies in carrying out activities described in this Act;

(3) the review of applications for grants and loans under sections 5 and 6 of this Act, and the submission to the Secretary of recommendations respecting the approval or disapproval of such applications;

(4) the review of any guidelines established by the Environmental Protection Agency for identifying those schools in which exposure to asbestos fibers constitutes a health problem and for taking appropriate corrective actions at such schools, in order to determine whether any modifications of such guidelines should be recommended to the Secretary under paragraph (5); and

(5) providing the Secretary with assistance in formulating standards and procedures under section 7 of this Act by—

(A) submitting to the Secretary relevant information concerning the results of the review made under paragraph (4) of this subsection; and

(B) recommending such modifications to the guidelines referred to in such paragraph as the Task Force considers appropriate.

In carrying out its duties under this subsection, the Task Force shall avoid, to the maximum extent practicable, duplicating similar activities undertaken by the Environmental Protection Agency.

Termination.

(f) The Task Force shall cease to exist at the end of the 180-day period beginning on the date that the authority of the Secretary to make loans under section 6 has expired.

STATE PLAN

20 USC 3603.

SEC. 4. (a) Not later than six months after the effective date of this Act, the State educational agency of any State which receives administrative funds for any applicable program (as defined under section 400(c)(1)(A) of the General Education Provisions Act) shall submit to the Secretary a plan which—

20 USC 1221.

(1) describes the manner in which the State, not later than nine months after the effective date of this Act, shall distribute to local educational agencies within that State's jurisdiction information describing—

(A) the programs established under this Act;

(B) the health hazards associated with exposure to asbestos fibers; and

(C) the procedures established by the Secretary under section 7 for carrying out activities under programs under this Act, and such other relevant information regarding such activities as the State considers desirable;

(2) contains a general description of the content of the information to be distributed in accordance with paragraph (1) and provides assurances that the State shall continually revise such information and distribute such revised material to local educational agencies to ensure that such agencies have available to them the most recent material available with regard to the matters referred to in paragraph (1);

(3) describes the procedures to be used by the State for maintaining records on—

(A) the presence of asbestos materials in school buildings of local educational agencies;

(B) the asbestos detection, containment, or removal activities conducted by local educational agencies (including activities relating to the replacement of the asbestos materials removed from school buildings with other appropriate building materials); and

(C) repairs made to restore school buildings to conditions comparable to those existing before the containment or removal activities referred to in subparagraph (B) were undertaken; and

(4) designates a State agency or other administrative unit with the responsibility for submitting to the Secretary the reports described in subsection (b) of this section and provides assurances that such agency or unit shall carry out the duties specified under subsection (b).

(b) Not later than six months after the submission of the plan described in subsection (a), and each six months thereafter during the two-year period beginning on the effective date of this Act, the State agency or unit designated under paragraph (4) of subsection (a) shall submit to the Secretary a report which describes the actions taken by the State in accordance with its plan under such subsection. Report to Secretary.

ASBESTOS HAZARDS DETECTION PROGRAM

SEC. 5. (a)(1)(A) The Secretary may make grants to local educational agencies for the Federal share of the costs of carrying out an asbestos detection program meeting the standards established by the Secretary under section 7(a)(1) of this Act. Grants may be made under this section only during the two-year period beginning on the effective date of this Act. Grants. 20 USC 3604.

(B) The Secretary may make grants to State educational agencies for the Federal share of the costs of carrying out any asbestos detection program if—

(i) the State, through the State educational agency or some other appropriate State agency, is making grants to local educational agencies for asbestos hazard detection programs, and

(ii) such programs meet the standards established by the Secretary under section 7(a)(1) of this Act.

(C) Grants may be made under this section only during the two-year period beginning after the date of enactment of this Act. Time limitation.

(2) Subject to the second sentence of this paragraph, the Federal share of the costs referred to in paragraph (1) shall be 50 percent. Upon a determination by the Secretary that an applicant has limited fiscal resources and would be unable to participate in the program under this section without receiving from the Federal Government, as its Federal share of such costs, an amount greater than the amount permitted under the first sentence of this paragraph, the Secretary may increase the Federal share which may be paid to such applicant by such amount as the Secretary considers appropriate to permit the applicant to participate in the program. Federal share.

(b)(1) No grant may be made under this section unless an application has been submitted to and approved by the Secretary, after consultation with the Task Force. The Secretary may not approve an application unless the application— Application for grant.

(A) contains a description of the methods to be used by the local educational agency, or in the case of an application by the State educational agency the methods to be used by the local educational agencies receiving grants from the State, to determine whether hazardous concentrations of asbestos fibers or materials emitting such fibers exist in school buildings under the jurisdiction of such agency;

(B) contains an estimate of the total cost of the detection program, including such detailed descriptions of the costs of each component of the program as the Secretary may require;

(C) designates the party which shall conduct the testing for the detection program and describes such party's qualifications for conducting such testing;

(D) contains assurances that the program shall be carried out in accordance with standards established by the Secretary under section 7(a)(1) and that any party employed to conduct such testing shall satisfy the competency standards established under such section; and

(E) contains such other information or assurances as the Secretary may require.

(2) The Secretary shall provide the Task Force with a copy of any application submitted to the Secretary under paragraph (1).

(3) No grant may be awarded by the Secretary under this section for asbestos hazards detection programs conducted before the effective date of this Act unless the applicant has submitted an application to the Secretary—

(A) containing the information required under paragraph (1); and

(B) providing assurances that any program for which a grant is sought was carried out in a manner which substantially conforms to the requirements established by the Secretary under section 7(a)(1).

No grant may be awarded under this section for any asbestos hazards detection program completed before January 1, 1976.

(4) After reviewing the application submitted under this section, together with any recommendations made by the Task Force, the Secretary shall determine the amount of any grant to be awarded under this section. Funds may be awarded by the Secretary for the administrative costs incurred in the preparation and supervision of the asbestos detection program and for the following activities:

(A) Visual inspections of school buildings.

(B) The sampling of building and insulation materials.

(C) Appropriate tests to determine the level of asbestos content in suspected materials, and tests determined to be essential to detect the likelihood of imminent danger to persons within school buildings.

Report to Secretary.

(c) Local and State educational agencies receiving grants under this section shall file a report with the Secretary, not later than 120 days after the award of such grant, describing the detection activities which were undertaken, the results of the asbestos detection program, and plans for mitigating any imminent hazards which were detected by the testing. The report shall include a detailed accounting of the funds used to carry out the detection program.

Limitation of funds.

(d) During the period in which grants may be made under this section, not more than 20 percent of the funds appropriated to carry out this section may be made available by the Secretary to the Task Force to conduct education and technical assistance programs related to the detection of asbestos hazards in school buildings and the implementation of appropriate actions to mitigate such hazards.

ASBESTOS HAZARDS CONTROL LOAN PROGRAM

20 USC 3605.

SEC. 6. (a)(1) There is established within the Department of Education an Asbestos Hazards Control Loan Program (hereinafter in this Act referred to as the "Loan Program"), which shall be administered by the Secretary in accordance with this section.

Limitation on loan amount.

(2) The Secretary may make loans under this section to local educational agencies in an amount equal to 50 percent of the costs of carrying out projects for—

(A) the containment or removal of any materials containing asbestos in school buildings in which such materials pose an imminent hazard to the health and safety of children or employees;

(B) the replacement of the asbestos materials removed from school buildings with other appropriate building materials; and

(C) making repairs which the Secretary determines to be necessary to restore school buildings to conditions comparable to those existing before containment or removal activities were undertaken under subparagraph (A).

Loans may be made under this section only for projects affecting more than 2,500 square feet of surface and in which the asbestos material to be contained or removed consists of a minimum asbestos level, as determined by the Secretary under section 7(a)(2).

Increase of loan amount.

(3) If the Secretary determines that an applicant has limited fiscal resources and would be unable to carry out the projects described in paragraph (2) without receiving a loan under this section for an amount greater than the amount permitted under such paragraph, the Secretary may increase the amount of the loan payable to such applicant to an amount the Secretary considers appropriate to enable the applicant to carry out such projects.

Terms and condition.

(b) Loans under this section shall be made pursuant to loan agreements which shall provide for the following terms:

(1) The loan shall not bear any interest except as otherwise provided under paragraph (5).

(2) The loan shall have a maturity period of not more than 20 years (as determined by the Secretary) and shall be repayable during such period at such times and in such amounts as the Secretary may specify in the loan agreement.

(3) Repayment of the loan shall be made to the Secretary of the Treasury for deposit in the general fund of the Treasury.

Such loans shall be subject to such other terms and conditions as the Secretary may establish for the protection of the financial interest of the United States and in furtherance of the purposes of this Act.

Loan application.

(c)(1) No loan may be made under this section unless an application has been submitted to and approved by the Secretary, after consultation with the Task Force, within the two-year period beginning on the effective date of this Act. The Secretary may not approve an application unless—

(A) the application contains such information as the Secretary may require, including information describing—

(i) the nature of the asbestos problem for which the loan is sought;

(ii) the asbestos content of the material to be contained or removed by the local educational agency, as determined under preliminary testing which was conducted in accordance with the standards established by the Secretary under section 7(a)(1), or, in the case of testing conducted before the effective date of this Act, was conducted in a manner which substantially conforms to such standards; and

(iii) the methods which will be used to contain or remove the asbestos materials, in accordance with section 7(b) of this Act, and any other pertinent details relating to the project or projects to be conducted by the applicant (as described in subsection (a)(2)); and

(B) the application contains assurances that—

(i) any employee engaged in any activity to carry out programs under this section shall be notified in writing by the local educational agency conducting the program of the hazards of working with asbestos, and shall be required to

utilize all appropriate safety procedures to minimize health risks;

(ii) no child or school employee shall be permitted in the vicinity of any asbestos containment or removal activity; and

(iii) the local educational agency shall pay employees engaged in containment, removal, or replacement activities to carry out programs under this section at reasonable rates of pay, as established by the Secretary on the basis of prevailing wage rates in the location of such work.

(2) The Secretary shall provide the Task Force with a copy of any application submitted to the Secretary under paragraph (1).

Time limitation.

(3) No loans may be made by the Secretary under this section for projects described in subsection (a)(2) which commenced before the availability of loans under the Loan Program unless the local educational agency submits to the Secretary an application which—

(A) meets the requirements of paragraph (1); and

(B) contains assurances that any work already completed by the applicant has been carried out in substantial conformity with section 7(b).

No loan may be awarded under this section for any project described in subsection (a)(2) which was completed before January 1, 1976.

Reports to congressional committees.

(d) During each of the three calendar years after the year in which this Act is enacted, the Secretary shall submit before February 1 of such year a report to the appropriate committees of the House of Representatives and the Senate, which shall—

(1) describe the number of loans made in the preceding calendar year and specify each applicant for and recipient of a loan;

(2) describe the nature of the asbestos problem of each applicant;

(3) describe the types of programs for which loans were made;

(4) specify the estimated total costs of such programs to the recipients of loans and specify the amount of loans made under the Loan Program; and

(5) specify the number of loan applications which were disapproved during the preceding calendar year and describe the reasons for such disapprovals.

STANDARDS AND SAFETY PROCEDURES

20 USC 3606.

SEC. 7. (a)(1) Within 120 days after the first meeting of the Task Force, and after consultation with the Task Force, the Secretary shall establish and distribute to the State agency or unit designated under section 4(a)(4)—

(A) procedures for testing the level of asbestos fibers in schools, including safety measures to be followed in conducting such tests;

(B) standards for evaluating (on the basis of such tests) the likelihood of the leakage of asbestos fibers into the school environment; and

(C) standards for determining which contractors are qualified to carry out the testing and evaluation described in this paragraph.

Eligibility criteria.

(2) After consulting with the Task Force, the Secretary shall establish criteria to be used for determining eligibility for loans under section 6 of this Act. The criteria shall be based on the assessment of the extent of the health hazards posed by the presence

of asbestos fibers in schools, as determined in accordance with standards under paragraph (1)(B) of this subsection.

(b) After reviewing recommendations submitted to the Secretary by the Task Force under section 3(e)(5), the Secretary, with the concurrence of the Task Force, shall by regulation establish— Regulations.

(1) procedures to be used by local educational agencies, in programs for which loans are made under section 6, for—

(A) containing and removing asbestos materials in school buildings;

(B) replacing the asbestos materials removed from school buildings with other appropriate building materials; and

(C) restoring such school buildings to conditions comparable to those existing before asbestos containment or removal activities were undertaken; and

(2) standards for determining which contractors are qualified to carry out the activities referred to in paragraph (1).

(c) In carrying out his duties under this section, the Secretary shall avoid, to the maximum extent practicable, duplicating similar activities undertaken by the Environmental Protection Agency.

RECOVERY OF COSTS BY THE UNITED STATES

SEC. 8. (a)(1) As a condition of the award of any grant under section 5 or loan under section 6, the recipient of any such grant or loan shall permit the United States to sue on behalf of such recipient any person determined by the Attorney General to be liable to the recipient for the costs of any activities undertaken by the recipient under such sections. 20 USC 3607.

(2) The proceeds from any judgment recovered in any suit brought by the United States under paragraph (1) (or, if the recipient files a similar suit on its own behalf, the proceeds from any judgment recovered by the recipient in such suit) shall be used to repay to the United States, to the extent that the proceeds are sufficient to provide for such repayment, an amount equal to the sum of—

(A) the amount of any grant made to the recipient under section 5;

(B) the amount outstanding on any loan made to the recipient under section 6; and

(C) an amount equal to the interest which would have been charged on such loan were the loan made by a commercial lender at prevailing interest rates (as determined by the Secretary).

(b) The Attorney General shall conduct an investigation to determine whether, by using all available means, the United States should or could recover, from any person determined by the Attorney General to be liable for such costs, the amounts expended by the United States to carry out this Act. Within one year after the effective date of this Act, the Attorney General shall submit to the Congress a report containing the results of the study, together with any appropriate recommendations. Investigation by Attorney General. Report to Congress.

(c) If the Attorney General determines in the report under subsection (b) that the United States should seek to recover the amounts expended by the United States to carry out this Act, the Attorney General shall proceed in an expeditious manner to recover such amounts from the persons referred to in subsection (b).

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EMPLOYEE PROTECTION

20 USC 3608.

SEC. 9. No State or local educational agency receiving assistance under this Act may discharge any employee or otherwise discriminate against any employee with respect to the employee's compensation, terms, conditions, or privileges of employment because the employee has brought to the attention of the public information concerning any asbestos problem in the school buildings within the jurisidiction of such agency.

RETAINED RIGHTS

20 USC 3609.

SEC. 10. Except as otherwise provided in section 8, nothing in this Act shall—

(1) affect the right of any party to seek legal redress in connection with the purchase or installation of asbestos materials in schools or any claim of disability or death related to exposure to asbestos in a school setting; or

(2) affect the rights of any party under any other law.

DEFINITIONS

20 USC 3610.

SEC. 11. For purposes of this Act—

(1) the term "asbestos" means—

(A) chrysotile, amosite, or crocidolite; or

(B) in fibrous form, tremolite, anthophyllite, or actinolite;

(2) the term "Attorney General" means the Attorney General of the United States;

(3) the term "imminent hazard to the health and safety" means, for purposes of section 6, that an asbestos material is, according to standards established by the Secretary, friable or easily damaged, or within easy reach of students or otherwise susceptible to damage (including damage from water or air circulation) which could result in the dispersal of asbestos fibers into the school environment;

(4) the term "local educational agency" means—

(A) any local educational agency as defined in section 198(a)(10) of the Elementary and Secondary Education Act of 1965; and

20 USC 2854.

(B) the governing authority of any nonprofit elementary or secondary school;

(5) the term "nonprofit elementary or secondary school" means—

(A) any elementary or secondary school (as defined in section 198(a)(7) of the Elementary and Secondary Education Act of 1965) owned and operated by one or more nonprofit corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual, and

(B) any school of any agency of the United States;

(6) the term "school buildings" means—

(A) structures suitable for use as classrooms, laboratories, libraries, school eating facilities, or facilities used for the preparation of food;

(B) any gymnasium or other facility which is specially designed for athletic or recreational activities for an academic course in physical education;

(C) other facilities used for the instruction of students, for research, or for the administration of educational or research programs; and

(D) maintenance, storage, or utility facilities essential to the operation of the facilities described in subparagraphs (A) through (C) of this paragraph;

(7) the term "Secretary" means the Secretary of Education, or his designee;

(8) the term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, the Bureau of Indian Affairs, and the Office of Overseas Schools of the Department of Defense; and

(9) the term "State educational agency" has the same meaning given such term by section 198(a)(17) of the Elementary and Secondary Education Act of 1965. 20 USC 2854.

AUTHORIZATION OF APPROPRIATIONS

SEC. 12. (a)(1) There are authorized to be appropriated— 20 USC 3611.

(A) for the asbestos detection program under section 5, for the fiscal year ending September 30, 1981, and for the succeeding fiscal year, a total of not more than $22,500,000; and

(B) for the asbestos hazards control loan program under section 6, not more than $75,000,000 for the fiscal year ending September 30, 1981, and $75,000,000 for the fiscal year ending September 30, 1982.

(2) Sums appropriated under paragraph (1) of this subsection shall remain available for obligation until September 30, 1983.

(b) Programs under this Act shall be considered automatically eligible for the one-year contingent extension under section 414 of the General Education Provisions Act. 20 USC 1226a.

(c) If funds appropriated to carry out this Act are insufficient to pay the total amount required to make all the grants and loans authorized under this Act, the Secretary shall establish criteria to be used in determining which applicants for grants or loans under this Act have the greatest financial need for receiving funds under this Act and shall make determinations regarding the approval of applications for such grants or loans in accordance with such criteria. Financial need criteria.

(d) Notwithstanding any other provision of this Act, the authority of the Secretary to enter into agreements, or to make payments, under this Act shall be effective for any fiscal year only to the extent or in such amounts as are provided in appropriation Acts.

AMENDMENT TO THE EDUCATION OF THE HANDICAPPED ACT

20 USC 1411.

SEC. 13. Section 611(c)(2)(A)(i)(II) of the Education of the Handicapped Act is amended by striking out "$200,000" and inserting in lieu thereof "$300,000".

Approved June 14, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-197 accompanying H.R. 3282 (Comm. on Education and Labor).

SENATE REPORT No. 96-710 (Comm. on Labor and Human Resources).

CONGRESSIONAL RECORD:

Vol. 125 (1979): Dec. 3, 13, H.R. 3282 considered and passed House.

Vol. 126 (1980): May 22, S. 1658 considered and passed Senate in lieu of H.R. 3282.

May 30, considered and passed House.

Public Law 96-271
96th Congress

An Act

To authorize appropriations for the International Natural Rubber Agreement for fiscal year 1981.

June 16, 1980
[S. 2666]

International Natural Rubber Agreement.
Appropriation authorization.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in order to meet the obligations of the United States as a member of the International Natural Rubber Organization established by the International Natural Rubber Agreement, there is authorized to be appropriated for the fiscal year 1981 $88,000,000 for the payment of contributions by the United States to the buffer stock account established by the agreement. Funds appropriated under this Act are authorized to remain available during the period in which the International Natural Rubber Agreement remains in effect with respect to the United States.

Approved June 16, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-964 accompanying H.R. 7219 (Comm. on Foreign Affairs).
SENATE REPORT No. 96-731 (Comm. on Foreign Relations).
CONGRESSIONAL RECORD, Vol. 126 (1980):
May 22, considered and passed Senate.
June 3, considered and passed House in lieu of H.R. 7219.

Public Law 96-272
96th Congress

An Act

June 17, 1980
[H.R. 3434]

To establish a program of adoption assistance, to strengthen the program of foster care assistance for needy and dependent children, to improve the child welfare, social services, and aid to families with dependent children programs, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Adoption Assistance and Child Welfare Act of 1980.

42 USC 1305 note.

SHORT TITLE

SECTION 1. This Act, with the following table of contents, may be cited as the "Adoption Assistance and Child Welfare Act of 1980".

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TITLE I—FOSTER CARE AND ADOPTION ASSISTANCE

FEDERAL PAYMENTS FOR FOSTER CARE AND ADOPTION ASSISTANCE

SEC. 101. (a)(1) Title IV of the Social Security Act is amended by adding at the end thereof the following new part:

"PART E—FEDERAL PAYMENTS FOR FOSTER CARE AND ADOPTION ASSISTANCE

"PURPOSE; APPROPRIATION

"SEC. 470. For the purpose of enabling each State to provide, in appropriate cases, foster care and adoption assistance for children who otherwise would be eligible for assistance under the State's plan approved under part A (or, in the case of adoption assistance, would be eligible for benefits under title XVI), there are authorized to be appropriated for each fiscal year (commencing with the fiscal year which begins October 1, 1980) such sums as may be necessary to carry out the provisions of this part. The sums made available under this section shall be used for making payments to States which have submitted, and had approved by the Secretary, State plans under this part. 42 USC 670. 42 USC 601. 42 USC 1381.

"STATE PLAN FOR FOSTER CARE AND ADOPTION ASSISTANCE

"SEC. 471. (a) In order for a State to be eligible for payments under this part, it shall have a plan approved by the Secretary which— 42 USC 671.

"(1) provides for foster care maintenance payments in accordance with section 472 and for adoption assistance payments in accordance with section 473;

"(2) provides that the State agency responsible for administering the program authorized by part B of this title shall administer, or supervise the administration of, the program authorized by this part; *Post*, p. 516.

"(3) provides that the plan shall be in effect in all political subdivisions of the State, and, if administered by them, be mandatory upon them;

"(4) provides that the State shall assure that the programs at the local level assisted under this part will be coordinated with the programs at the State or local level assisted under parts A and B of this title, under title XX of this Act, and under any other appropriate provision of Federal law; 42 USC 601, *post*, p. 516, 42 USC 1397.

"(5) provides that the State will, in the administration of its programs under this part, use such methods relating to the establishment and maintenance of personnel standards on a merit basis as are found by the Secretary to be necessary for the proper and efficient operation of the programs, except that the Secretary shall exercise no authority with respect to the selection, tenure of office, or compensation of any individual employed in accordance with such methods;

"(6) provides that the State agency referred to in paragraph (2) (hereinafter in this part referred to as the 'State agency') will make such reports, in such form and containing such information as the Secretary may from time to time require, and comply with such provisions as the Secretary may from time to time find State agency.

necessary to assure the correctness and verification of such reports;

"(7) provides that the State agency will monitor and conduct periodic evaluations of activities carried out under this part;

Information disclosure restriction.

"(8) provides safeguards which restrict the use of or disclosure of information concerning individuals assisted under the State plan to purposes directly connected with (A) the administration of the plan of the State approved under this part, the plan or program of the State under part A, B, C, or D of this title or under title I, V, X, XIV, XVI (as in effect in Puerto Rico, Guam, and the Virgin Islands), XIX, or XX, or the supplemental security income program established by title XVI, (B) any investigation, prosecution, or criminal or civil proceeding, conducted in connection with the administration of any such plan or program, (C) the administration of any other Federal or federally assisted program which provides assistance, in cash or in kind, or services, directly to individuals on the basis of need, and (D) any audit or similar activity conducted in connection with the administration of any such plan or program by any governmental agency which is authorized by law to conduct such audit or activity; and the safeguards so provided shall prohibit disclosure, to any committee or legislative body (other than an agency referred to in clause (D) with respect to an activity referred to in such clause), of any information which identifies by name or address any such applicant or recipient; except that nothing contained herein shall preclude a State from providing standards which restrict disclosures to purposes more limited than those specified herein, or which, in the case of adoptions, prevent disclosure entirely;

42 USC 601, *post*, p. 516, 42 USC 630, 651.
42 USC 301, 701, 1201, 1351, 1381, 1396, 1397.
42 USC 1381.

"(9) provides that where any agency of the State has reason to believe that the home or institution in which a child resides whose care is being paid for in whole or in part with funds provided under this part or part B of this title is unsuitable for the child because of the neglect, abuse, or exploitation of such child, it shall bring such condition to the attention of the appropriate court or law enforcement agency;

Post, p. 516.

"(10) provides that the standards referred to in section 2003(d)(1)(F) shall be applied by the State to any foster family home or child care institution receiving funds under this part or part B of this title;

42 USC 1397b.

"(11) provides for periodic review of the standards referred to in the preceding paragraph and amounts paid as foster care maintenance payments and adoption assistance payments to assure their continuing appropriateness;

Standards, review.

"(12) provides for granting an opportunity for a fair hearing before the State agency to any individual whose claim for benefits available pursuant to this part is denied or is not acted upon with reasonable promptness;

Hearing.

"(13) provides that the State shall arrange for a periodic and independently conducted audit of the programs assisted under this part and part B of this title, which shall be conducted no less frequently than once every three years;

Audit.

"(14) provides (A) specific goals (which shall be established by State law on or before October 1, 1982) for each fiscal year (commencing with the fiscal year which begins on October 1, 1983) as to the maximum number of children (in absolute numbers or as a percentage of all children in foster care with respect to whom assistance under the plan is provided during

Goals.

such year) who, at any time during such year, will remain in foster care after having been in such care for a period in excess of twenty-four months, and (B) a description of the steps which will be taken by the State to achieve such goals;

"(15) effective October 1, 1983, provides that, in each case, reasonable efforts will be made (A) prior to the placement of a child in foster care, to prevent or eliminate the need for removal of the child from his home, and (B) to make it possible for the child to return to his home; and

Case plan and case review system.

"(16) provides for the development of a case plan (as defined in section 475(1)) for each child receiving foster care maintenance payments under the State plan and provides for a case review system which meets the requirements described in section 475(5)(B) with respect to each such child.

Plan approval.

"(b) The Secretary shall approve any plan which complies with the provisions of subsection (a) of this section. However, in any case in which the Secretary finds, after reasonable notice and opportunity for a hearing, that a State plan which has been approved by the Secretary no longer complies with the provisions of subsection (a), or that in the administration of the plan there is a substantial failure to comply with the provisions of the plan, the Secretary shall notify the State that further payments will not be made to the State under this part, or that such payments will be made to the State but reduced by an amount which the Secretary determines appropriate, until the Secretary is satisfied that there is no longer any such failure to comply, and until he is so satisfied he shall make no further payments to the State, or shall reduce such payments by the amount specified in his notification to the State.

"FOSTER CARE MAINTENANCE PAYMENTS PROGRAM

42 USC 672, *post*, p. 513.

"SEC. 472. (a) Each State with a plan approved under this part shall make foster care maintenance payments (as defined in section 475(4)) under this part with respect to a child who would meet the requirements of section 406(a) or of section 407 but for his removal from the home of a relative (specified in section 406(a)), if—

42 USC 606, 607.

"(1) the removal from the home was the result of a judicial determination to the effect that continuation therein would be contrary to the welfare of such child and (effective October 1, 1983) that reasonable efforts of the type described in section 471(a)(15) have been made;

"(2) such child's placement and care are the responsibility of (A) the State agency administering the State plan approved under section 471, or (B) any other public agency with whom the State agency administering or supervising the administration of the State plan approved under section 471 has made an agreement which is still in effect;

"(3) such child has been placed in a foster family home or child-care institution as a result of a determination referred to in paragraph (1); and

"(4) such child—

"(A) received aid under the State plan approved under section 402 in or for the month in which court proceedings leading to the removal of such child from the home were initiated, or

42 USC 602.

"(B)(i) would have received such aid in or for such month if application had been made therefor, or (ii) had been living

42 USC 606.

with a relative specified in section 406(a) within six months prior to the month in which such proceedings were initiated, and would have received such aid in or for such month if in such month he had been living with such a relative and application therefor had been made.

"(b) Foster care maintenance payments may be made under this part only on behalf of a child described in subsection (a) of this section who is—

"(1) in the foster family home of an individual, whether the payments therefor are made to such individual or to a public or nonprofit private child-placement or child-care agency, or

"(2) in a child-care institution, whether the payments therefor are made to such institution or to a public or nonprofit private child-placement or child-care agency, which payments shall be limited so as to include in such payments only those items which are included in the term 'foster care maintenance payments' (as defined in section 475(4)).

"Foster family home."

"(c) For the purposes of this part, (1) the term 'foster family home' means a foster family home for children which is licensed by the State in which it is situated or has been approved, by the agency of such State having responsibility for licensing homes of this type, as meeting the standards established for such licensing; and (2) the term 'child-care institution' means a nonprofit private child-care institution, or a public child-care institution which accommodates no more than twenty-five children, which is licensed by the State in which it is situated or has been approved, by the agency of such State responsible for licensing or approval of institutions of this type, as meeting the standards established for such licensing, but the term shall not include detention facilities, forestry camps, training schools, or any other facility operated primarily for the detention of children who are determined to be delinquent.

"Child-care institution."

42 USC 1396, 1397.
42 USC 606.
42 USC 601.

"(d) For purposes of titles XIX and XX, any child with respect to whom foster care maintenance payments are made under this section shall be deemed to be a dependent child as defined in section 406 and shall be deemed to be a recipient of aid to families with dependent children under part A of this title.

"ADOPTION ASSISTANCE PROGRAM

42 USC 673.
Post, p. 514.

"SEC. 473. (a)(1) Each State with a plan approved under this part shall, directly through the State agency or through another public or nonprofit private agency, make adoption assistance payments pursuant to an adoption assistance agreement in amounts determined under paragraph (2) of this subsection to parents who, after the effective date of this section, adopt a child who—

"(A)(i) at the time adoption proceedings were initiated, met the requirements of section 406(a) or section 407 or would have met such requirements except for his removal from the home of a relative (specified in section 406(a)) as a result of a judicial determination to the effect that continuation therein would be contrary to the welfare of such child, or

42 USC 606, 607.

"(ii) meets all of the requirements of title XVI with respect to eligibility for supplemental security income benefits,

42 USC 1381.

"(B)(i) received aid under the State plan approved under section 402 in or for the month in which court proceedings leading to the removal of such child from the home were initiated, or

42 USC 602.

"(ii)(I) would have received such aid in or for such month if application had been made therefor, or (II) had been living with a relative specified in section 406(a) within six months prior to the month in which such proceedings were initiated, and would have received such aid in or for such month if in such month he had been living with such a relative and application therefor had been made, or

42 USC 606.

"(iii) is a child described in subparagraph (A)(ii), and

"(C) has been determined by the State, pursuant to subsection (c) of this section, to be a child with special needs.

"(2) The amount of the adoption assistance payments shall be determined through agreement between the adoptive parents and the State or local agency administering the program under this section, which shall take into consideration the circumstances of the adopting parents and the needs of the child being adopted, and may be readjusted periodically, with the concurrence of the adopting parents (which may be specified in the adoption assistance agreement), depending upon changes in such circumstances. However, in no case may the amount of the adoption assistance payment exceed the foster care maintenance payment which would have been paid during the period if the child with respect to whom the adoption assistance payment is made had been in a foster family home.

Amount of payment.

"(3) Notwithstanding the preceding paragraph, (A) no payment may be made to parents with respect to any child who has attained the age of eighteen (or, where the State determines that the child has a mental or physical handicap which warrants the continuation of assistance, the age of twenty-one), and (B) no payment may be made to parents with respect to any child if the State determines that the parents are no longer legally responsible for the support of the child or if the State determines that the child is no longer receiving any support from such parents. Parents who have been receiving adoption assistance payments under this section shall keep the State or local agency administering the program under this section informed of circumstances which would, pursuant to this subsection, make them ineligible for such assistance payments, or eligible for assistance payments in a different amount.

Restrictions.

"(4) For purposes of this part, individuals with whom a child (who has been determined by the State, pursuant to subsection (c), to be a child with special needs) is placed for adoption, pursuant to an interlocutory decree, shall be eligible for adoption assistance payments under this subsection, during the period of the placement, on the same terms and subject to the same conditions as if such individuals had adopted such child.

"(b) For purposes of titles XIX and XX, any child with respect to whom adoption assistance payments are made under this section shall be deemed to be a dependent child as defined in section 406 and shall be deemed to be a recipient of aid to families with dependent children under part A of this title.

42 USC 1396, 1397.

42 USC 606.

42 USC 601.

"(c) For purposes of this section, a child shall not be considered a child with special needs unless—

Child with special needs.

"(1) the State has determined that the child cannot or should not be returned to the home of his parents; and

"(2) the State had first determined (A) that there exists with respect to the child a specific factor or condition (such as his ethnic background, age, or membership in a minority or sibling group, or the presence of factors such as medical conditions or physical, mental, or emotional handicaps) because of which it is

reasonable to conclude that such child cannot be placed with adoptive parents without providing adoption assistance, and (B) that, except where it would be against the best interests of the child because of such factors as the existence of significant emotional ties with prospective adoptive parents while in the care of such parents as a foster child, a reasonable, but unsuccessful, effort has been made to place the child with appropriate adoptive parents without providing adoption assistance under this section.

"PAYMENTS TO STATES; ALLOTMENTS TO STATES

42 USC 674.

"SEC. 474. (a) For each quarter beginning after September 30, 1980, each State which has a plan approved under this part (subject to the limitations imposed by subsection (b)) shall be entitled to a payment equal to the sum of—

"(1) an amount equal to the Federal medical assistance percentage (as defined in section 1905(b) of this Act) of the total amount expended during such quarter as foster care maintenance payments under section 472 for children in foster family homes or child-care institutions; plus

42 USC 1396d.

"(2) an amount equal to the Federal medical assistance percentage (as defined in section 1905(b) of this Act) of the total amount expended during such quarter as adoption assistance payments under section 473 pursuant to adoption assistance agreements; plus

"(3) an amount equal to the sum of the following proportions of the total amounts expended during such quarter as found necessary by the Secretary for the proper and efficient administration of the State plan—

"(A) 75 per centum of so much of such expenditures as are for the training (including both short- and long-term training at educational institutions through grants to such institutions or by direct financial assistance to students enrolled in such institutions) of personnel employed or preparing for employment by the State agency or by the local agency administering the plan in the political subdivision, and

"(B) one-half of the remainder of such expenditures.

"(b)(1) Notwithstanding the provisions of subsections (a)(1) and (a)(3), the aggregate of the sums payable thereunder to any State (other than a State subject to limitation under section 1108(a)) with respect to expenditures relating to foster care, for the calendar quarters in any of the fiscal years 1981 through 1984 in which the conditions set forth in paragraph (2) are met, shall not exceed the State's allotment for such year.

42 USC 1308.
Post, pp. 526, 529, 530.

"(2)(A) The limitation in paragraph (1) shall apply—

"(i) with respect to fiscal year 1981, only if the amount appropriated under section 420 for such fiscal year is equal to or greater than $163,550,000;

"(ii) with respect to fiscal year 1982, only if the amount appropriated under section 420 for such fiscal year is equal to or greater than $220,000,000;

42 USC 620.

"(iii) with respect to fiscal year 1983, only if the amount appropriated under section 420 for such fiscal year is equal to $266,000,000; and

"(iv) with respect to fiscal year 1984, only if the amount appropriated under section 420 for such fiscal year is equal to $266,000,000.

"(B) The limitations set forth in paragraph (1) with respect to the fiscal years 1982 through 1984 shall apply only if the required appropriation is made in advance in an appropriation Act (as authorized under section 420(b)) for the fiscal year preceding the fiscal year to which the limitation would apply. 42 USC 620.

"(3) For purposes of this subsection, a State's allotment for any fiscal year shall be the greater of—

"(A) the amount determined under paragraph (4);

"(B) an amount which bears the same ratio to $100,000,000 as the under age eighteen population of such State bears to the under age eighteen population of the fifty States and the District of Columbia; or

"(C) at the option of the State, an amount determined under paragraph (5), but only in the case of a State which meets the requirements of such paragraph (5).

"(4) For purposes of paragraph (3)(A), a State's allotment shall be determined as follows: State allotment determination criteria.

"(A) The allotment for any State for fiscal year 1980 shall be an amount equal to such State's base amount (as determined under subparagraph (c)) increased by 21.2 percent.

"(B) The allotment for any State for each of the fiscal years 1981 through 1984 shall be an amount equal to such State's allotment for the preceding fiscal year, increased or decreased by a percentage equal to twice the percentage increase or decrease (as the case may be) (but not to exceed an increase or decrease of 10 percent) in the Consumer Price Index prepared by the Department of Labor, and used in determining cost-of-living adjustments under section 215(i) of this Act, for the second quarter of the preceding fiscal year as compared to such index for the second quarter of the second preceding fiscal year. For purposes of this subparagraph the Consumer Price Index for any quarter shall be the arithmetical mean of such index for the three months in such quarter. 42 USC 415.

"(C) The base amount shall be equal to the amount of the Federal funds payable to such State for fiscal year 1978 under section 403 on account of expenditures for aid with respect to which Federal financial participation is authorized in payments pursuant to section 408 (including administrative expenditures attributable to the provision of such aid as determined by the Secretary) and for those States which in fiscal year 1978 did not make foster care maintenance payments under section 408 on behalf of children otherwise eligible for such payment, solely because their foster care was provided by related persons, shall be equal to the total amount of Federal funds the State would have been entitled to be paid under section 403 on account of expenditures pursuant to section 408 for that fiscal year if such payments had been made. In the event that there is a dispute between any State and the Secretary as to the amount of such expenditures for such fiscal year, then, until the beginning of the fiscal year immediately following the fiscal year in which the dispute is finally resolved, the base amount shall be deemed to be the amount of Federal funds which would have been payable under section 408 if the amount of such expenditures were equal to the amount thereof claimed by the State. 42 USC 603. *Post*, p. 512.

"(5)(A) For purposes of paragraph (3)(C), a State's allotment for any fiscal year ending after September 30, 1980, and before October 1, 1984, may, at the option of the State (and if the State meets the

requirements of subparagraphs (B) and (C)), be determined by application of the provisions of paragraph (4) with the following modifications:

"(i) The base amount for purposes of determining an allotment for any such fiscal year shall be equal to the base amount determined under paragraph (4)(C) increased by a percentage equal to the percentage by which the average monthly number of children in such State receiving aid with respect to which Federal financial participation is authorized in payments pursuant to section 408, or receiving foster care maintenance payments with respect to which Federal financial participation is authorized under this part, for such fiscal year exceeds the average monthly number of such children for fiscal year 1978.

Post, p. 512.

"(ii) For purposes of clause (i), the percentage determined under such clause shall not exceed 33.1 percent in the case of fiscal year 1981, 46.4 percent in the case of fiscal year 1982, 61.1 percent in the case of fiscal year 1983, or 77.2 percent in the case of fiscal year 1984.

"(B) No State may exercise the option to have its allotment amount determined under the provisions of this paragraph unless, for fiscal year 1978, the average monthly number of children in such State receiving aid for which Federal financial participation is authorized in payments pursuant to section 408 as a percentage of the under age eighteen population of such State, was less than the average such percentage for the fifty States and the District of Columbia.

"(C) No State may exercise the option to have its allotment determined under this paragraph for any fiscal year other than fiscal year 1981 after the first fiscal year (after fiscal year 1978) with respect to which the average monthly number of children in such State receiving aid for which Federal financial participation is authorized in payments pursuant to section 408, or receiving foster care maintenance payments for which Federal financial participation is authorized under this part, as a percentage of the under age eighteen population of such State, was equal to or greater than the average such percentage for the fifty States and the District of Columbia for the fiscal year 1978. Any allotment determined under this paragraph for a State which opted to have its allotment so determined under this paragraph for the fiscal year prior to the first fiscal year for which its option may not be exercised by reason of the preceding sentence shall be considered to be such State's allotment for such prior fiscal year for purposes of determining allotments for subsequent fiscal years under paragraph (4).

"(D) In determining the number of children receiving aid for which Federal financial participation is authorized in payments under section 408 or under this part, for any fiscal year, with respect to any State and with respect to the national average for purposes of subparagraphs (B) and (C), there shall be included those children with respect to whom foster care maintenance payments were not made under section 408 or this part (though they were otherwise eligible for such payments) solely because their foster care was provided by related persons. In the event that there is a dispute between any State and the Secretary as to the number of such children (with respect to whom foster care maintenance payments were not made) for any fiscal year, then until the beginning of the fiscal year immediately following the fiscal year in which the dispute is finally resolved, determinations under subparagraphs (B) and (C) shall be

made on the basis of the number of such children claimed by the State.

"(E) The Secretary shall promulgate an interim allotment amount for purposes of this paragraph for each fiscal year for each State exercising its option to have its allotment determined under this paragraph, based on the most recent satisfactory data available, not later than six months after the beginning of such fiscal year. The amount of such allotment shall be adjusted, and the final allotment amount shall be promulgated, based on the most recent satisfactory data available, not later than nine months after the end of such fiscal year. Interim and final allotment amounts.

"(6) Except in the case of a State which loses the option of having its allotment determined under paragraph (5) by reason of the provisions of paragraph (5)(C), and subject to the provisions of such paragraph (5)(C), the amount of any allotment as determined in accordance with subparagraph (A), (B), or (C) of paragraph (3) for any fiscal year for any State shall be determined in accordance with the provisions of such subparagraph, without regard to the amount of such State's allotment for any prior fiscal year as determined in accordance with another such subparagraph.

"(c)(1) Except as provided in paragraphs (3) and (4), for any of the fiscal years 1981 through 1984 during which the limitation under subsection (b)(1) is in effect, sums available to a State from its allotment under subsection (b) for carrying out this part, which the State does not claim as reimbursement for expenditures in such year pursuant to subsection (a) of this section, may be claimed by the State as reimbursement for expenditures in such year pursuant to part B of this title, in addition to sums available pursuant to section 420 for carrying out part B. State reimbursements.

Post, p. 516.

"(2) Except as provided in paragraphs (3) and (4), for any of the fiscal years 1981 through 1984 during which the limitation under subsection (b)(1) is not in effect, a State may claim as reimbursement for expenditures for such year pursuant to part B of this title, in addition to amounts claimed under section 420, an amount equal to the amount by which the State's allotment amount for such fiscal year (as determined under subsection (b)(3)) exceeds the amount claimed by such State for such fiscal year as reimbursement for expenses relating to foster care under subsection (a); except that the total amount claimed by such State for such fiscal year under this paragraph, when added to the amount that such State receives for such fiscal year under section 420, may not exceed the amount that would have been payable to such State under section 420 for such fiscal year if the relvant amount described in subsection (b)(2)(A) had been appropriated for such fiscal year.

"(3) The provisions of paragraphs (1) and (2) shall not apply for any fiscal year with respect to any State which, with respect to such fiscal year, exercised its option to have its allotment amount determined under subsection (b)(5).

"(4)(A) No State may claim an amount under the provisions of this subsection as reimbursement for expenditures for any fiscal year pursuant to part B of this title to the extent that such amount, plus the amount claimed by such State for such fiscal year under section 420, exceeds the amount which would be allotted to such State under part B if the amount appropriated under section 420 were $141,000,000, unless such State has met the requirements set forth in section 427(a).

Post, p. 519.

42 USC 620.

"(B) If, for each of any two consecutive fiscal years, there is appropriated under section 420 a sum equal to $266,000,000, no State may claim any amount under the provisions of this subsection as reimbursement for expenditures for any succeeding fiscal year pursuant to part B of this title unless such State has met the requirements set forth in section 427(b).

Post, p. 516.
Post, p. 519.

"(C) If, for each of any two fiscal years during which the limitation under subsection (b)(1) is not in effect, the total amount claimed by a State as reimbursement for expenditures pursuant to part B under this subsection and under section 420 equals the amount which would be allotted to such State for such fiscal year under part B if the amount appropriated under section 420 were $266,000,000, such State may not claim any amount under the provisions of paragraph (2) as reimbursement for expenditures for any succeeding fiscal year pursuant to part B of this title unless such State has met the requirements set forth in section 427(b).

"DEFINITIONS

42 USC 675.
Ante, p. 501, post, p. 516.

"SEC. 475. As used in this part or part B of this title:

"(1) The term 'case plan' means a written document which includes at least the following: A description of the type of home or institution in which a child is to be placed, including a discussion of the appropriateness of the placement and how the agency which is responsible for the child plans to carry out the judicial determination made with respect to the child in accordance with section 472(a)(1); and a plan for assuring that the child receives proper care and that services are provided to the parents, child, and foster parents in order to improve the conditions in the parents' home, facilitate return of the child to his own home or the permanent placement of the child, and address the needs of the child while in foster care, including a discussion of the appropriateness of the services that have been provided to the child under the plan.

"(2) The term 'parents' means biological or adoptive parents or legal guardians, as determined by applicable State law.

"(3) The term 'adoption assistance agreement' means a written agreement, binding on the parties to the agreement, between the State agency, other relevant agencies, and the prospective adoptive parents of a minor child which at a minimum (A) specifies the amounts of the adoption assistance payments and any additional services and assistance which are to be provided as part of such agreement, and (B) stipulates that the agreement shall remain in effect regardless of the State of which the adoptive parents are residents at any given time. The agreement shall contain provisions for the protection (under an interstate compact approved by the Secretary or otherwise) of the interests of the child in cases where the adoptive parents and child move to another State while the agreement is effective.

"(4) The term 'foster care maintenance payments' means payments to cover the cost of (and the cost of providing) food, clothing, shelter, daily supervision, school supplies, a child's personal incidentals, liability insurance with respect to a child, and reasonable travel to the child's home for visitation. In the case of institutional care, such term shall include the reasonable costs of administration and operation of such institution as are necessarily required to provide the items described in the preceding sentence.

"(5) The term 'case review system' means a procedure for assuring that—

"(A) each child has a case plan designed to achieve placement in the least restrictive (most family like) setting available and in close proximity to the parents' home, consistent with the best interest and special needs of the child,

"(B) the status of each child is reviewed periodically but no less frequently than once every six months by either a court or by administrative review (as defined in paragraph (6)) in order to determine the continuing necessity for and appropriateness of the placement, the extent of compliance with the case plan, and the extent of progress which has been made toward alleviating or mitigating the causes necessitating placement in foster care, and to project a likely date by which the child may be returned to the home or placed for adoption or legal guardianship, and

"(C) with respect to each such child, procedural safeguards will be applied, among other things, to assure each child in foster care under the supervision of the State of a dispositional hearing to be held, in a family or juvenile court or another court (including a tribal court) of competent jurisdiction, or by an administrative body appointed or approved by the court, no later than eighteen months after the original placement (and periodically thereafter during the continuation of foster care), which hearing shall determine the future status of the child (including, but not limited to, whether the child should be returned to the parent, should be continued in foster care for a specified period, should be placed for adoption, or should (because of the child's special needs or circumstances) be continued in foster care on a permanent or long-term basis); and procedural safeguards shall also be applied with respect to parental rights pertaining to the removal of the child from the home of his parents, to a change in the child's placement, and to any determination affecting visitation privileges of parents.

"(6) The term 'administrative review' means a review open to the participation of the parents of the child, conducted by a panel of appropriate persons at least one of whom is not responsible for the case management of, or the delivery of services to, either the child or the parents who are the subject of the review.

"TECHNICAL ASSISTANCE; DATA COLLECTION AND EVALUATION

"SEC. 476. (a) The Secretary may provide technical assistance to the States to assist them to develop the programs authorized under this part and shall periodically (1) evaluate the programs authorized under this part and part B of this title and (2) collect and publish data pertaining to the incidence and characteristics of foster care and adoptions in this country. 42 USC 676.

Ante, p. 501, *post*, p. 516.

"(b) Each State shall submit statistical reports as the Secretary may require with respect to children for whom payments are made under this part containing information with respect to such children including legal status, demographic characteristics, location, and length of any stay in foster care.". Statistical reports to Secretary.

Repeal.
42 USC 608.

(2)(A) Effective with respect to expenditures made after September 30, 1980, section 408 of the Social Security Act is, subject to subparagraph (B), repealed.

42 USC 608 note.

(B) The repeal made by subparagraph (A) shall not be applicable in the case of any State for any quarter prior to the first quarter, which begins after September 30, 1980, in which such State has in effect a State plan approved under part E of the Social Security Act, or (if earlier) such repeal shall be effective with respect to expenditures made after September 30, 1982. During any period with respect to which the repeal made by subparagraph (A) is not applicable in the case of a State and during which a limitation is in effect under section 474(b)(1) of the Social Security Act, the aggregate of the sums payable to the State, under the State's plan approved under part A of title IV of such Act, with respect to expenditures (including administrative expenditures as determined by the Secretary of Health, Education, and Welfare) authorized or incurred by reason of the provisions of section 408 of such Act shall not exceed the amount of the allotment which such State would have had for such period under section 474(b) if such State had had an approved plan under part E of such title IV. Any amount which would have been available to such State from its allotment for any period with respect which such repeal is not applicable in the case of a State (whether or not a limitation is in effect under section 474(b)(1) of such Act) under section 474(b) of the Social Security Act (if such State had had an approved plan under part E of title IV of such Act) which the State does not claim as reimbursement with respect to expenditures (including administrative expenditures as determined by the Secretary) authorized or incurred by reason of the provisions of section 408 of such Act, may be claimed by the State as reimbursement for expenditures in such period pursuant to part B of title IV of such Act in the same manner as amounts available to States from allotments under section 474(b) of such Act, and not claimed as reimbursement under part E of title IV of such Act, are authorized to be claimed under section 474(c) of such Act.

Ante, p. 501.

Ante, p. 506.

42 USC 601.

Supra.

Post, p. 516.

42 USC 602.

(3)(A) Section 402(a)(20) of such Act is amended to read as follows:

"(20) provide that the State has in effect a State plan for foster care and adoption assistance approved under part E of this title;".

Ante, p. 501.
Effective date.
42 USC 602 note.

(B) The amendment made by subparagraph (A) shall become effective with respect to any State at the same time as the repeal of section 408 becomes effective with respect to such State under the provisions of paragraph (2) of this subsection.

Supra.

Effective date.
42 USC 675 note.
Ante, p. 510.

(4)(A) Clause (B) of the first sentence of section 475(3) of the Social Security Act (as added by subsection (a) of this section) shall be effective with respect to adoption assistance agreements entered into on or after October 1, 1983.

Interstate compacts.
42 USC 673a.

(B) The Secretary of Health, Education, and Welfare shall take all possible steps to encourage and assist the various States to enter into interstate compacts (which are hereby approved by the Congress) under which the interests of any adopted child with respect to whom an adoption assistance agreement has been entered into by a State under section 473 of the Social Security Act will be adequately protected, on a reasonable and equitable basis which is approved by the Secretary, if and when the child and his or her adoptive parent (or parents) move to another State.

Ante, p. 504.

(5)(A) Subject to the repeal provided under paragraph (2), the last paragraph of section 408 of the Social Security Act is amended to read as follows:

Ante, p. 512.

"For the purposes of this section, the term 'foster family home' means a foster family home for children which is licensed by the State in which it is situated or has been approved, by the agency of such State having responsibility for licensing homes of this type, as meeting the standards established for such licensing; and the term 'child-care institution' means a nonprofit private child-care institution, or a public child-care institution which accommodates no more than twenty-five children, which is licensed by the State in which it is situated or has been approved, by the agency of such State responsible for licensing or approval of institutions of this type, as meeting the standards established for such licensing; but the term shall not include detention facilities, forestry camps, training schools, or any other facility operated primarily for the detention of children who are determined to be delinquent.".

"Foster family home."

"Child-care institution."

(B) The amendment made by subparagraph (A) shall be effective with respect to expenditures made on or after the date of the enactment of this Act.

Effective date.
42 USC 608 note.

(b)(1) The Secretary of Health, Education, and Welfare shall conduct a study of programs of foster care and adoption assistance established under part IV-E of the Social Security Act (as added by subsection (a) of this section), and shall submit to the Congress, not later than October 1, 1983, a full and complete report thereon, together with his recommendations as to (A) whether such part IV-E should be continued, and if so, (B) the changes (if any) which should be made in such part IV-E.

Report to Congress.
42 USC 670 note.

Ante, p. 501.

(2) Such report shall include, but not be limited to, the following:

(A) a determination as to (i) the extent of reduction that has occurred in the duration of foster care under such programs, (ii) the extent to which such programs of adoption assistance have resulted in an increase in the adoption of children who otherwise would have remained in foster care under State plans approved under title IV-A or IV-E of the Social Security Act, and (iii) the extent to which the availability of Federal funding for adoption assistance under title IV-E of such Act has resulted in States' initiating or expanding programs for adoption assistance, and

42 USC 601, *ante*, p. 501.

(B) specific legislative recommendations for ways to bring about further reduction in the duration of foster care for children.

FEDERAL PAYMENTS FOR DEPENDENT CHILDREN VOLUNTARILY PLACED IN FOSTER CARE

SEC. 102. (a)(1) Effective with respect to expenditures made after September 30, 1980, and before October 1, 1983, section 472(a) of the Social Security Act (as added by section 101 of this Act) is amended—

Ante, p. 503.

(A) by inserting "occurred pursuant to a voluntary placement agreement entered into by the child's parent or legal guardian, or" after "removal from the home" in paragraph (1);

(B) by striking out "a determination" in paragraph (3) and inserting in lieu thereof "the voluntary placement agreement or judicial determination";

(C) by inserting "such agreement was entered into or" after "the month in which" in paragraph (4)(A); and

(D) by inserting "such agreement was entered into or" after "the month in which" in paragraph (4)(B)(ii).

Ante, p. 503.

(2) Section 472 of such Act (as so added) is further amended by redesignating subsection (d) as subsection (h), and by inserting after subsection (c) the following new subsections:

"(d) Notwithstanding any other provision of this title, Federal payments may be made under this part with respect to amounts expended by any State as foster care maintenance payments under this section, in the case of children removed from their homes pursuant to voluntary placement agreements as described in subsection (a), only if (at the time such amounts were expended) the State has fulfilled all of the requirements of section 427(b).

Post, p. 519.

"(e) No Federal payment may be made under this part with respect to amounts expended by any State as foster care maintenance payments under this section, in the case of any child who was removed from his or her home pursuant to a voluntary placement agreement as described in subsection (a) and has remained in voluntary placement for a period in excess of 180 days, unless there has been a judicial determination by a court of competent jurisdiction (within the first 180 days of such placement) to the effect that such placement is in the best interests of the child.

Ante, p. 501, *post*, p. 516.

"Voluntary placement."

"Voluntary placement agreement."

"(f) For the purposes of this part and part B of this title, (1) the term 'voluntary placement' means an out-of-home placement of a minor, by or with participation of a State agency, after the parents or guardians of the minor have requested the assistance of the agency and signed a voluntary placement agreement; and (2) the term 'voluntary placement agreement' means a written agreement, binding on the parties to the agreement, between the State agency, any other agency acting on its behalf, and the parents or guardians of a minor child which specifies, at a minimum, the legal status of the child and the rights and obligations of the parents or guardians, the child, and the agency while the child is in placement.

"(g) In any case where—

"(1) the placement of a minor child in foster care occurred pursuant to a voluntary placement agreement entered into by the parents or guardians of such child as provided in subsection (a), and

"(2) such parents or guardians request (in such manner and form as the Secretary may prescribe) that the child be returned to their home or to the home of a relative,

the voluntary placement agreement shall be deemed to be revoked unless the State agency opposes such request and obtains a judicial determination, by a court of competent jurisdiction, that the return of the child to such home would be contrary to the child's best interests.".

Ante, p. 504.

(3) Section 473(a)(1) of such Act (as so added) is amended—

(A) by inserting ", either pursuant to a voluntary placement agreement with respect to which Federal payments are provided under section 474 (or 403) or" immediately before "as a result of a judicial determination" in subparagraph (A)(i);

Ante, p. 506, 42 USC 603.

(B) by inserting "such agreement was entered into or" after "the month in which" in subparagraph (B)(i); and

(C) by inserting "such agreement was entered into or" after "the month in which" in subparagraph (B)(ii).

Ante, p. 510.

(4) Section 475(1) of such Act (as so added) is amended by inserting "voluntary placement agreement entered into or" before "judicial determination made".

(b)(1) Effective with respect to expenditures made after September 30, 1979 (but subject to the repeal provided under section 101(a)(2) (A) and (B)), section 408(a) of the Social Security Act is amended— *Ante*, p. 512.

(A) by inserting "pursuant to a voluntary placement agreement entered into by the child's parent or legal guardian, or" after "(specified in such section 406(a))" in clause (1); 42 USC 606.

(B) by striking out "such determination" in clause (3) and inserting in lieu thereof "such voluntary placement agreement or judicial determination";

(C) by inserting "such agreement was entered into or" after "the month in which" in clause (4)(A); and

(D) by inserting "such agreement was entered into or" after "the month in which" in clause (4)(B)(ii).

(2) Section 408 of such Act is further amended by adding at the end thereof the following new paragraph:

"For the purposes of this section, the provisions of subsections (d), (e), (f), and (g) of section 472 shall apply.". *Ante*, p. 503.

(c) The amendments made by subsections (a) and (b) shall be effective only with respect to expenditures made after September 30, 1979, and before October 1, 1983; and from and after October 1, 1983, the provisions of law amended by such subsections shall read as they would if this section had not been enacted. Effective date. 42 USC 672 note, 608, 672, 673, 675.

(d)(1) For purposes of section 472 of the Social Security Act, a child who was voluntarily removed from the home of a relative and who had a judicial determination prior to October 1, 1978, to the effect that continuation therein would be contrary to the welfare of such child, shall be deemed to have been so removed as a result of such judicial determination if, and from the date that, a case plan and a review meeting the requirements of section 471(a)(16) of such Act have been made with respect to such child and such child is determined to be in need of foster care as a result of such review. In the case of any child described in the preceding sentence, for purposes of section 472(a)(4) of such Act, the date of the voluntary removal shall be deemed to be the date on which court proceedings are initiated which led to such removal. 42 USC 672 note. *Ante*, p. 501.

(2) For purposes of section 408 of the Social Security Act (but subject to the repeal provided under section 101(a)(2) (A) and (B)), in any case where a child was voluntarily removed from the home of a relative prior to October 1, 1979, and a judicial determination was made (prior to October 1, 1978) to the effect that continuation in such home would have been contrary to the child's welfare— 42 USC 608 note. *Ante*, p. 512.

(A) such child shall be deemed to have been so removed as a result of a judicial determination to the effect that continuation in such home would be contrary to the welfare of such child, and

(B) Federal financial participation under the applicable State plan approved under section 402 of the Social Security Act for quarters beginning prior to October 1, 1979, shall not be denied with respect to aid furnished under such plan to or on behalf of such child. 42 USC 602.

For purposes of subsection (a)(4) of such section 408, the date of such child's voluntary removal shall be deemed to be the date on which court proceedings were initiated which led to such removal. *Ante*, p. 512.

(e) The Secretary of Health, Education, and Welfare, within three months after the close of each fiscal year with respect to which the amendments made by this section are in effect, shall submit to the Congress a full and complete report on the number of children placed in foster care pursuant to voluntary placement agreements under Report to Congress. 42 USC 672 note.

Ante, pp. 512, 513.

sections 408 and 472 of the Social Security Act and on the reasons for such placements together with a description of the extent to which such placements have contributed to the achievement of the objectives of this title, including such recommendations as he may deem appropriate with respect to the continuation (in such section 472) of authority to make Federal payments for dependent children voluntarily placed in foster care.

CHILD WELFARE SERVICES

SEC. 103. (a) Part B of title IV of the Social Security Act is amended (subject to subsection (c) of this section) by striking out all that precedes section 426 and inserting in lieu thereof the following:

"PART B—CHILD WELFARE SERVICES

"APPROPRIATION

42 USC 620.

"SEC. 420. (a) For the purpose of enabling the United States, through the Secretary, to cooperate with State public welfare agencies in establishing, extending, and strengthening child welfare services, there is authorized to be appropriated for each fiscal year the sum of $266,000,000.

"(b) Funds appropriated for any fiscal year pursuant to the authorization contained in subsection (a) shall be included in the appropriation Act (or supplemental appropriation Act) for the fiscal year preceding the fiscal year for which such funds are available for obligation. In order to effect a transition to this method of timing appropriation action, the preceding sentence, shall apply notwithstanding the fact that its initial application will result in the enactment in the same year (whether in the same appropriation Act or otherwise) of two separate appropriations, one for the then current fiscal year and one for the succeeding fiscal year.

"ALLOTMENTS TO STATES

42 USC 621.

"SEC. 421. (a) The sum appropriated pursuant to section 420 for each fiscal year shall be allotted by the Secretary for use by cooperating State public welfare agencies which have plans developed jointly by the State agency and the Secretary as follows: He shall first allot $70,000 to each State, and shall then allot to each State an amount which bears the same ratio to the remainder of such sum as the product of (1) the population of the State under the age of twenty-one and (2) the allotment percentage of the State (as determined under this section) bears to the sum of the corresponding products of all the States.

"Allotment percentage."

"(b) The 'allotment percentage' for any State shall be 100 per centum less the State percentage; and the State percentage shall be the percentage which bears the same ratio to 50 per centum as the per capita income of such State bears to the per capita income of the United States; except that (1) the allotment percentage shall in no case be less than 30 per centum or more than 70 per centum, and (2) the allotment percentage shall be 70 per centum in the case of Puerto Rico, the Virgin Islands, and Guam.

Promulgation by Secretary.

"(c) The allotment percentage for each State shall be promulgated by the Secretary between October 1 and November 30 of each even-numbered year, on the basis of the average per capita income of each State and of the United States for the three most recent calendar

years for which satisfactory data are available from the Department of Commerce. Such promulgation shall be conclusive for each of the two fiscal years in the period beginning October 1 next succeeding such promulgation.

"United States."

"(d) For purposes of this section, the term 'United States' means the fifty States and the District of Columbia.

"STATE PLANS FOR CHILD WELFARE SERVICES

42 USC 622.
Post, p. 521.

"SEC. 422. (a) In order to be eligible for payment under this part, a State must have a plan for child welfare services which has been developed jointly by the Secretary and the State agency designated pursuant to subsection (b)(1), and which meets the requirements of subsection (b).

"(b) Each plan for child welfare services under this part shall—

42 USC 1397b.

"(1) provide that (A) the individual or agency designated pursuant to section 2003(d)(1)(C) to administer or supervise the administration of the State's services program will administer or supervise the administration of the plan (except as otherwise provided in section 103(d) of the Adoption Assistance and Child Welfare Act of 1980), and (B) to the extent that child welfare services are furnished by the staff of the State agency or local agency administering the plan, a single organizational unit in such State or local agency, as the case may be, will be responsible for furnishing such child welfare services;

Ante, p. 516.

42 USC 1397.
42 USC 601.
Ante, p. 501.

"(2) provide for coordination between the services provided for children under the plan and the services and assistance provided under title XX, under the State plan approved under part A of this title, under the State plan approved under part E of this title, and under other State programs having a relationship to the program under this part, with a view to provision of welfare and related services which will best promote the welfare of such children and their families;

"(3) provide that the standards and requirements imposed with respect to child day care under title XX shall apply with respect to day care services under this part, except insofar as eligibility for such services is involved;

Paraprofessionals and volunteers.

"(4) provide for the training and effective use of paid paraprofessional staff, with particular emphasis on the full-time or part-time employment of persons of low income, as community service aides, in the administration of the plan, and for the use of nonpaid or partially paid volunteers in providing services and in assisting any advisory committees established by the State agency;

"(5) contain a description of the services to be provided and specify the geographic areas where such services will be available;

"(6) contain a description of the steps which the State will take to provide child welfare services and to make progress in—

"(A) covering additional political subdivisions,

"(B) reaching additional children in need of services, and

"(C) expanding and strengthening the range of existing services and developing new types of services,

along with a description of the State's child welfare services staff development and training plans;

Voluntary agencies, utilization.

"(7) provide, in the development of services for children, for utilization of the facilities and experience of voluntary agencies

in accordance with State and local programs and arrangements, as authorized by the State; and

"(8) provide that the agency administering or supervising the administration of the plan will furnish such reports, containing such information, and participate in such evaluations, as the Secretary may require.

"PAYMENT TO STATES

42 USC 623.

"SEC. 423. (a) From the sums appropriated therefor and the allotment under this part, subject to the conditions set forth in this section and in section 427, the Secretary shall from time to time pay to each State that has a plan developed in accordance with section 422 an amount equal to 75 per centum of the total sum expended under the plan (including the cost of administration of the plan) in meeting the costs of State, district, county, or other local child welfare services.

Computation method.

"(b) The method of computing and making payments under this section shall be as follows:

"(1) The Secretary shall, prior to the beginning of each period for which a payment is to be made, estimate the amount to be paid to the State for such period under the provisions of this section.

"(2) From the allotment available therefor, the Secretary shall pay the amount so estimated, reduced or increased, as the case may be, by any sum (not previously adjusted under this section) by which he finds that his estimate of the amount to be paid the State for any prior period under this section was greater or less than the amount which should have been paid to the State for such prior period under this section.

"(c)(1) No payment may be made to a State under this part, for any fiscal year beginning after September 30, 1979, with respect to State expenditures made for (A) child day care necessary solely because of the employment, or training to prepare for employment, of a parent or other relative with whom the child involved is living, (B) foster care maintenance payments, and (C) adoption assistance payments, to the extent that the Federal payment with respect to those expenditures would exceed the total amount of the Federal payment under this part for fiscal year 1979.

"(2) Expenditures made by a State for any fiscal year which begins after September 30, 1979, for foster care maintenance payments shall be treated for purposes of making Federal payments under this part with respect to expenditures for child welfare services, as if such foster care maintenance payments constituted child welfare services of a type to which the limitation imposed by paragraph (1) does not apply; except that the amount payable to the State with respect to expenditures made for other child welfare services and for foster care maintenance payments during any such year shall not exceed 100 per centum of the amount of the expenditures made for child welfare services for which payment may be made under the limitation imposed by paragraph (1) as in effect without regard to this paragraph.

"(d) No payment may be made to a State under this part in excess of the payment made under this part for fiscal year 1979, for any fiscal year beginning after September 30, 1979, if for the latter fiscal year the total of the State's expenditures for child welfare services under this part (excluding expenditures for activities specified in subsection

(c)(1)) is less than the total of the State's expenditures under this part (excluding expenditures for such activities) for fiscal year 1979.

"REALLOTMENT

"SEC. 424. The amount of any allotment to a State under section 421 for any fiscal year which the State certifies to the Secretary will not be required for carrying out the State plan developed as provided in section 422 shall be available for reallotment from time to time, on such dates as the Secretary may fix, to other States which the Secretary determines (1) have need in carrying out their State plans so developed for sums in excess of those previously allotted to them under section 421 and (2) will be able to use such excess amounts during such fiscal year. Such reallotments shall be made on the basis of the State plans so developed, after taking into consideration the population under the age of twenty-one, and the per capita income of each such State as compared with the population under the age of twenty-one, and the per capita income of all such States with respect to which such a determination by the Secretary has been made. Any amount so reallotted to a State shall be deemed part of its allotment under section 421. 42 USC 624.

"DEFINITIONS

"SEC. 425. (a)(1) For purposes of this title, the term 'child welfare services' means public social services which are directed toward the accomplishment of the following purposes: (A) protecting and promoting the welfare of all children, including handicapped, homeless, dependent, or neglected children; (B) preventing or remedying, or assisting in the solution of problems which may result in, the neglect, abuse, exploitation, or delinquency of children; (C) preventing the unnecessary separation of children from their families by identifying family problems, assisting families in resolving their problems, and preventing breakup of the family where the prevention of child removal is desirable and possible; (D) restoring to their families children who have been removed, by the provision of services to the child and the families; (E) placing children in suitable adoptive homes, in cases where restoration to the biological family is not possible or appropriate; and (F) assuring adequate care of children away from their homes, in cases where the child cannot be returned home or cannot be placed for adoption. 42 USC 625.

"(2) Funds expended by a State for any calendar quarter to comply with the statistical report required by section 476(b), and funds expended with respect to nonrecurring costs of adoption proceedings in the case of children placed for adoption with respect to whom assistance is provided under a State plan for adoption assistance approved under part E of this title, shall be deemed to have been expended for child welfare services. *Ante*, p. 501.

"(b) For other definitions relating to this part and to part E of this title, see section 475 of this Act.". *Ante*, p. 510.

(b) Part B of title IV of such Act is amended by adding at the end thereof the following new sections:

"FOSTER CARE PROTECTION REQUIRED FOR ADDITIONAL FEDERAL PAYMENTS

"SEC. 427. (a) If, for any fiscal year after fiscal year 1979, there is appropriated under section 420 a sum in excess of $141,000,000, a State shall not be eligible for payment from its allotment in an 42 USC 627.

amount greater than the amount for which it would be eligible if such appropriation were equal to $141,000,000, unless such State—

"(1) has conducted an inventory of all children who have been in foster care under the responsibility of the State for a period of six months preceding the inventory, and determined the appropriateness of, and necessity for, the current foster placement, whether the child can be or should be returned to his parents or should be freed for adoption, and the services necessary to facilitate either the return of the child or the placement of the child for adoption or legal guardianship; and

"(2) has implemented and is operating to the satisfaction of the Secretary—

"(A) a statewide information system from which the status, demographic characteristics, location, and goals for the placement of every child in foster care or who has been in such care within the preceding twelve months can readily be determined;

"(B) a case review system (as defined in section 475(5)) for each child receiving foster care under the supervision of the State; and

"(C) a service program designed to help children, where appropriate, return to families from which they have been removed or be placed for adoption or legal guardianship.

"(b) If, for each of any two consecutive fiscal years after the fiscal year 1979, there is appropriated under section 420 a sum equal to $266,000,000, each State's allotment amount for any fiscal year after such two consecutive fiscal years shall be reduced to an amount equal to its allotment amount for the fiscal year 1979, unless such State—

"(1) has completed an inventory of the type specified in subsection (a)(1);

"(2) has implemented and is operating the program and systems specified in subsection (a)(2); and

"(3) has implemented a preplacement preventive service program designed to help children remain with their families.

"(c) Any amounts expended by a State for the purpose of complying with the requirements of subsection (a) or (b) shall be conclusively presumed to have been expended for child welfare services.

"PAYMENTS TO INDIAN TRIBAL ORGANIZATIONS

42 USC 628.

"SEC. 428. (a) The Secretary may, in appropriate cases (as determined by the Secretary) make payments under this part directly to an Indian tribal organization within any State which has a plan for child welfare services approved under this part. Such payments shall be made in such manner and in such amounts as the Secretary determines to be appropriate.

"(b) Amounts paid under subsection (a) shall be deemed to be a part of the allotment (as determined under section 421) for the State in which such Indian tribal organization is located.

"(c) For purposes of this section—

"Tribal organization."

"(1) the term 'tribal organization' means the recognized governing body of any Indian tribe, or any legally established organization of Indians which is controlled, sanctioned, or chartered by such governing body; and

"Indian tribe."

"(2) the term 'Indian tribe' means any tribe, band, nation, or other organized group or community of Indians (including any Alaska Native village or regional or village corporation as

defined in or established pursuant to the Alaska Native Claims Settlement Act (Public Law 92-203; 85 Stat. 688)) which (A) is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians, or (B) is located on, or in proximity to, a Federal or State reservation or rancheria.". 43 USC 1601 note.

(c) In the case of Guam, Puerto Rico, and the Virgin Islands, and the Commonwealth of the Northern Mariana Islands, section 422(b)(1) of such Act (as otherwise amended by subsection (a) of this section) shall be deemed to read as follows: 42 USC 622 note. *Ante*, p. 517.

"(1) provide that (A) the State agency designated pursuant to section 402(a)(3) to administer or supervise the administration of the plan of the State approved under part A of this title will administer or supervise the administration of such plan for child welfare services, and (B) to the extent that child welfare services are furnished by the staff of the State agency or local agency administering such plan for child welfare services, the organizational unit in such State or local agency established pursuant to section 402(a)(15) will be responsible for furnishing such child welfare services;". 42 USC 602. 42 USC 601.

(d) Notwithstanding section 422(b)(1) of the Social Security Act (as amended by subsection (a) of this section) if on December 1, 1974, the agency of a State administering its plan for child welfare services under part B of title IV of that Act was not the agency designated pursuant to section 402(a)(3) of that Act, such section 422(b)(1) shall not apply with respect to such agency, but only so long as such agency is not the agency designated under section 2003(d)(1)(C) of that Act; and if on December 1, 1974, the local agency administering the plan of a State under part B of title IV of that Act in a subdivision of the State was not the local agency in such subdivision administering the plan of such State under part A of that title, such section 422(b)(1) shall not apply with respect to such local agency, but only so long as such local agency is not the local agency administering the program of the State for the provision of services under title XX of that Act. 42 USC 622 note. *Ante*, p. 517. *Ante*, p. 516. 42 USC 602. 42 USC 1397b. 42 USC 1397. 42 USC 1397a.

(e) Section 2002(a)(8) of such Act is amended by striking out "or 422" and inserting in lieu thereof "or 423". 42 USC 620 note.

(f)(1) Notwithstanding any other provision of law, funds which are appropriated for fiscal year 1980 pursuant to section 420 of the Social Security Act, and for which States are eligible for payment under part B of title IV of that Act, shall remain available, to the extent so provided in an appropriation Act hereafter enacted, for payment with respect to expenditures for child welfare services under part B of title IV of that Act until September 30, 1981. *Ante*, p. 516.

(2) Section 420(b) of the Social Security Act (as added by subsection (a) of this section) shall apply only with respect to appropriation Acts, which appropriate funds for fiscal years after fiscal year 1981 pursuant to the authorization contained in section 420 of the Social Security Act, enacted after the date of enactment of this Act.

TITLE II—SOCIAL SERVICES

DETERMINATION OF AMOUNT ALLOCATED TO STATES

SEC. 201. (a) Section 2002(a)(2)(A) of the Social Security Act is amended by striking out clause (ii) and inserting in lieu thereof the following: 42 USC 1397a.

"(ii) The amount specified for purposes of clause (i) for fiscal year 1980 and each succeeding fiscal year shall be an amount (not exceeding $3,300,000,000) equal to the indexed ceiling amount for that fiscal year as determined under subparagraph (B).".

42 USC 1397a.

(b) Section 2002(a)(2) of such Act is amended (subject to subsection (c) of this section) by striking out subparagraphs (B), (C), and (D), and by inserting after subparagraph (A) the following new subparagraph:

"(B)(i)(I) Except as otherwise provided in clauses (ii), (iii), and (iv), the indexed ceiling amount for any fiscal year shall be an amount equal to the indexed ceiling amount for the preceding fiscal year increased or decreased (as the case may be) by an amount determined under division (II).

"(II) For purposes of division (I) the amount of the increase or decrease (as the case may be) shall be an amount equal to $2,500,000,000, multiplied by a percentage equal to the positive or negative percentage change in the Consumer Price Index prepared by the Department of Labor, and used in determining cost-of-living adjustments under section 215(i) of this Act, for the second quarter of the preceding fiscal year as compared to such index for the second quarter of the second preceding fiscal year (rounded to the nearest one-tenth of 1 per centum). For purposes of this clause the Consumer Price Index for any quarter shall be the arithmetical mean of such index for the three months in such quarter.

42 USC 415.

"(ii) If the percentage increase in the Consumer Price Index as determined under clause (i)(II) for any fiscal year exceeds the inflation rate for that fiscal year as shown for that year (or, if no rate is shown for that year, for the most recent preceding year for which a rate is shown) in the table which appears on page 25 of Senate Budget Committee Report Numbered 96-311, then for such fiscal year such inflation rate shall be used in making the determination under clause (i)(II) instead of the percentage increase in the Consumer Price Index.

"(iii) The indexed ceiling amount determined under clause (i) shall, if not a multiple of $100,000,000, be rounded to the next lesser amount that is a multiple of $100,000,000.

"(iv) The indexed ceiling amount for fiscal year 1979 shall be $2,500,000,000."

(c) With respect to fiscal year 1980 only—

42 USC 1397a.

(1) subparagraphs (B) and (C) of section 2002(a)(2) of such Act (as in effect immediately prior to the enactment of this Act) shall continue in effect, redesignated as subparagraphs (D) and (E), respectively;

(2) the subparagraph of such section 2002(a)(2) which is redesignated as subparagraph (E) and continued in effect by paragraph (1) of this subsection is amended by striking out "subparagraph (B)" and "subparagraph (D)" and inserting in lieu thereof "subparagraph (D)" and "subparagraph (F)", respectively; and

(3) subparagraph (D) of such section 2002(a)(2) (as in effect immediately prior to the enactment of this Act) shall continue in effect, redesignated as subparagraph (F) and amended to read as follows:

"(F) The amounts made available pursuant to subparagraph (E) for allotment in fiscal year 1980 shall be allotted by the Secretary to the States which have certified under subparagraph (D) that the amounts of their limitations for such fiscal year are less than their need for such year. The amount of such allotment to any State (which shall be in addition to any payments made to the State under subparagraph (A)) shall bear the same ratio to

the total amount available for allotment in such year under this subparagraph as the population of such State bears to the population of the fifty States and the District of Columbia, but shall in no case exceed the amount by which such State certified that its limitation is less than its need for such fiscal year.".

EXTENSION OF 100-PER CENTUM FEDERAL MATCHING FOR CHILD DAY CARE EXPENDITURES

SEC. 202. (a) Section 2002(a) of the Social Security Act is amended by adding at the end thereof the following new paragraph: 42 USC 1397a.

"(17)(A) The total payment to a State under this section with respect to expenditures during any fiscal year for the provision of child day care services under this title (including expenditures for grants to qualified providers under section 2007) shall be equal to 100 per centum of such expenditures to the extent that such expenditures (during that fiscal year) do not exceed— 42 USC 1397f.

"(i) an amount which bears the same ratio to $200,000,000 as the amount of the State's limitation under paragraph (2)(A) bears to the indexed ceiling amount for such fiscal year, in the case of fiscal year 1980 and fiscal year 1981; or

"(ii) 8 per centum of the State's limitation under paragraph (2)(A) for such fiscal year, in the case of fiscal year 1982 and any subsequent fiscal year.

"(B) Federal funds payable to a State under this title (with respect to expenditures for child day care services) at the rate specified in subparagraph (A) shall, to the maximum extent that the State determines to be feasible, be employed in such a way as to increase the employment of welfare recipients and other low-income persons in jobs related to the provision of child day care services.".

(b) Section 2002(a)(1) of such Act is amended by striking out "100 per centum" and all that follows down through "2007" and inserting in lieu thereof "100 per centum of the expenditures during that quarter for child day care services (including expenditures for grants to qualified providers under section 2007) to the extent permitted by paragraph (17)".

LIMITATION ON FUNDS FOR TRAINING

SEC. 203. (a) The first sentence of section 2002(a)(2)(A)(i) of the Social Security Act is amended by striking out "in excess of an amount" and all that precedes it, and inserting in lieu thereof "Except as provided in clause (iii), no payment may be made under this section to any State for any fiscal year in excess of an amount". 42 USC 1397a.

(b) Section 2002(a)(2)(A) of such Act is further amended by adding after clause (ii) the following new clause:

"(iii) Payment with respect to expenditures for personnel training or retraining directly related to the provision of services under this title shall be made to a State in excess of the limitation for such State promulgated under clause (i) for any fiscal year and without regard to such limitation; except that—

"(I) notwithstanding any other provision of law, payment to a State with respect to such expenditures for fiscal years 1980 and 1981 may not exceed an amount equal to 4 per centum of such State's limitation (for the fiscal year involved) under clause (i), or, if greater, an amount equal to the amount of the payment made under this title to such State with respect to such expendi-

tures for fiscal year 1979, or equal to (a) the amount which would be payable without regard to this subclause with respect to expenditures pursuant to an appropriation made prior to October 1, 1979, by such State for fiscal year 1980, or, if less, (b) the amount determined under division (a) of this subclause reduced to the extent necessary and on a proportional basis so as to assure that the aggregate of the additional amounts payable to all States as a result of such division (a) does not exceed $6,000,000; and

Training plan, submittal to Secretary.

"(II) payment to a State with respect to such expenditures for fiscal year 1982 or any succeeding fiscal year may be made only if the State has submitted to the Secretary in accordance with paragraph (18) (prior to the beginning of the fiscal year involved) a training plan specifying how its funds expended for such training or retraining in that fiscal year will be used, and only with respect to expenditures included in such plan which are approved by the Secretary in accordance with criteria prescribed by him.".

42 USC 1397a.
Ante, p. 523.

(c) Section 2002(a) of such Act is amended by adding after paragraph (17) (as added by section 202(a) of this Act) the following new paragraph:

"(18) Effective October 1, 1981, no payment may be made under this section for training or retraining expenditures except in accordance with a training plan approved by the Secretary which, at a minimum—

"(A) describes how training needs were assessed and how the assessment was used to structure the training programs, the individuals to be trained, and the training resources to be used;

"(B) demonstrates that the training activities have a direct relationship to the title XX services program and to the State's staffing needs to carry out the title XX services program; and

42 USC 1397.

"(C) describes the State agency's plan to monitor training programs and to evaluate the agency's overall staff training and development program.".

USE OF RESTRICTED PRIVATE FUNDS FOR TRAINING PROGRAMS

42 USC 1397a.

SEC. 204. (a) Section 2002(a)(7)(D)(ii) of the Social Security Act is amended by striking out "and" at the end thereof and inserting in lieu thereof the following: "except that during fiscal years 1980 and 1981 the provisions of this clause shall not apply with respect to funds that are donated for the purpose of training or retraining as provided in subsection (a)(1), if such training or retraining is carried out by a public or nonprofit entity, and".

EMERGENCY SHELTER

SEC. 205. (a) Section 2002(a)(11) of the Social Security Act is amended—

(1) by striking out "and" at the end of subparagraph (C);

(2) by striking out the period at the end of subparagraph (D) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new subparagraph:

"(E) any expenditure for the provision of emergency shelter, for not in excess of thirty days in any six-month period, provided as a

protective service to an adult in danger of physical or mental injury, neglect, maltreatment, or exploitation.".

(b) The amendments made by this section shall be effective on and after October 1, 1979. Effective date. 42 USC 1397a note.

MULTIYEAR PLAN; CHOICE OF FISCAL YEAR

SEC. 206. (a) Section 2004(1) of the Social Security Act is amended to read as follows: 42 USC 1397c.

"(1) for each services program period, the beginning of the fiscal year of the Federal Government, the State government, or the political subdivisions of such State is established as the beginning of the State's services program period, and the end of such fiscal year, the succeeding fiscal year, or the second succeeding fiscal year is established as the end of the State's services program period; and".

(b) Section 2004 of such Act is further amended—

(1) by striking out "services program year" each place it appears and inserting in lieu thereof in each instance "services program period";

(2) by striking out "annual" in paragraph (2) (in the matter preceding subparagraph (A)) and in paragraph (4);

(3) by striking out "during that year" in paragraph (2) (in the matter preceding subparagraph (A)) and inserting in lieu thereof "during that period";

(4) by striking out the period at the end of paragraph (5) and inserting in lieu thereof "; and"; and

(5) by adding at the end thereof the following new paragraph:

"(6) in the case of a State that adopts a services program planning period of longer than one year, the State agency publishes and makes generally available such information concerning the comprehensive services program at such times as the Secretary may by regulation require.".

(c) Section 2003(b) of such Act is amended— 42 USC 1397b.

(1) by striking out "each services program year" and inserting in lieu thereof "each fiscal year (as selected by the State under section 2004(1)) within each services program period"; and

(2) by striking out "any services program year" and inserting in lieu thereof "any services program period".

(d) Sections 2003(d)(1) and 2005 of such Act are each amended by striking out "services program year" and inserting in lieu thereof "services program period". 42 USC 1397b, 1397d.

(e) Section 2002(a)(3)(B) of such Act is amended by striking out "annual". 42 USC 1397a.

(f) The amendments made by this section shall be effective with respect to services program periods beginning after the date of the enactment of this Act. Effective date. 42 USC 1397a note.

SOCIAL SERVICES FUNDING FOR TERRITORIES

SEC. 207. (a) Section 2002(a)(2) of the Social Security Act is amended by adding after subparagraph (B) (as added by section 201(b) of this Act) the following new subparagraph: 42 USC 1397a. *Ante*, p. 521.

"(C) From the amounts made available under section 2001 for any fiscal year beginning with fiscal year 1980 (in addition to any sums appropriated for purposes of payments under the preceding provisions of this subsection), the Secretary shall allocate—

"(i) to the jurisdictions of Puerto Rico, Guam, and the Virgin Islands, for purposes of payments under sections 8(a) (4) and (5), 403(a)(3), 1003(a) (3) and (4), 1403(a) (3) and (4), and 1603(a) (4) and (5), with respect to services, the sums of $15,000,000, $500,000 and $500,000, respectively, and

42 USC 303, 603, 1203, 1353, 1383 note.

"(ii) to the jurisdiction of the Northern Mariana Islands, for purposes of payments under section 403(a)(3), with respect to services and for services programs for other individuals as defined by the Secretary, the sum of $100,000,

42 USC 603.

in addition to any amounts otherwise available to such jurisdictions under this Act.".

(b) The last sentence of section 2001 of such Act is amended by inserting before the period at the end thereof the following: "(and to territorial jurisdictions as described in subsection (a)(2)(C) thereof)".

42 USC 1397.

(c) Section 1108(a) of such Act is amended by striking out "section 2002(a)(2)(D)" and inserting in lieu thereof "section 2002(a)(2)(C)".

42 USC 1308, *post*, pp. 529, 530.

PERMANENT EXTENSION OF PROVISIONS RELATING TO CHILD DAY CARE SERVICES AND WIN TAX CREDIT

SEC. 208. (a) Section 4(d) of Public Law 96-178 is amended by striking out "during the period beginning October 1, 1979, and ending March 31, 1980" and inserting in lieu thereof "on or after October 1, 1979".

42 USC 1397e-1 note.

(b)(1) Section 50B(i) of the Internal Revenue Code of 1954 (relating to special rules with respect to employment of day care workers) is amended to read as follows:

93 Stat. 1295. 26 USC 50B.

"(i) SPECIAL RULES WITH RESPECT TO EMPLOYMENT OF DAY CARE WORKERS.—

"(1) ELIGIBLE EMPLOYEE.—An individual who would be an 'eligible employee' (as that term is defined for purposes of this section) except for the fact that such individual's employment is not on a substantially full-time basis, shall be deemed to be an eligible employee as so defined, if such employee's employment is related to the provision of child day care services and is performed on either a full-time or part-time basis.

"(2) ALTERNATIVE COMPUTATION WITH RESPECT TO CHILD DAY CARE SERVICES ELIGIBLE EMPLOYEES PAID FROM FUNDS MADE AVAILABLE UNDER TITLE XX OF THE SOCIAL SECURITY ACT.—The amount of the credit allowed a taxpayer under section 40, as determined under section 50A and the preceding provisions of this section, with respect to work incentive program expenses paid or incurred by him with respect to an eligible employee whose services are performed in connection with a child day care services program conducted by the taxpayer, and with respect to whom the taxpayer is reimbursed (in whole or in part) from funds made available pursuant to section 2007 of the Social Security Act, at the option of the taxpayer shall be equal to 100 percent of the unreimbursed wages paid or incurred by the taxpayer with respect to such employee, but not more than the amount of the limitation in paragraph (4).

42 USC 1397. 26 USC 40. 26 USC 50A.

42 USC 1397f.

"(3) UNREIMBURSED WAGES.—For purposes of this subsection, the term 'unreimbursed wages' means work incentive program expenses for which the taxpayer was not reimbursed under section 2007 of the Social Security Act or under any other grant or program.

"(4) LIMITATION.—The amount of the credit, as determined under paragraph (2), with respect to any employee shall not exceed the lesser of—

"(A) an amount equal to $6,000 minus the amount of the funds reimbursed to the taxpayer with respect to such employee from funds made available pursuant to section 2007 of the Social Security Act; or 42 USC 1397f.

"(B) with respect to work incentive program expenses attributable to service rendered—

"(i) during the one-year period which begins on the day such employee begins work for the taxpayer, an amount equal to the lesser of—

"(I) $3,000, or

"(II) 50 percent of the sum of the amount of the unreimbursed wages of such employee and the amount reimbursed to the taxpayer with respect to such employee from funds made available pursuant to section 2007 of the Social Security Act; or

"(ii) during the one-year period which begins on the day after the last day of the one-year period described in clause (i), an amount equal to the lesser of—

"(I) $1,500, or

"(II) 25 percent of the sum of the amount of the unreimbursed wages of such employee and the amount reimbursed to the taxpayer with respect to such employee from funds made available pursuant to section 2007 of the Social Security Act.".

(2) Section 50B(h)(1)(B) of such Code is amended by inserting "(except as provided in subsection (i))" after "full-time basis". 26 USC 50B.

(3)(A) The amendments made by paragraphs (1) and (2) shall be effective with respect to taxable years beginning after December 31, 1979. Effective date. 26 USC 50B note.

(B) The redesignation of subsection (i) of section 50B of the Internal Revenue Code of 1954 as subsection (j) by section 3(a)(1) of Public Law 96-178, shall remain in effect with respect to taxable years beginning after December 31, 1979. 26 USC 50B note. 93 Stat. 1295.

PERMANENT EXTENSION OF PROVISIONS RELATING TO SERVICES FOR ALCOHOLICS AND DRUG ADDICTS

SEC. 209. Section 5(b) of Public Law 96-178 is amended by striking out "during the period beginning October 1, 1978, and ending March 31, 1980" and inserting in lieu thereof "on or after October 1, 1978". 93 Stat. 1297. 42 USC 1397a note.

TITLE III—OTHER SOCIAL SECURITY ACT PROVISIONS

PERMANENT EXTENSION OF PROVISIONS RELATING TO CHILD SUPPORT ENFORCEMENT

SEC. 301. (a) Section 2(b) of Public Law 96-178 is amended by striking out "during the period beginning October 1, 1978, and ending March 31, 1980" and inserting in lieu thereof "on or after October 1, 1978". 93 Stat. 1295. 42 USC 655 note.

(b) Section 452(a)(10) of the Social Security Act is amended by adding at the end thereof (after and below subparagraph (H)) the following new sentence: 42 USC 652.

"The information contained in any such report under subparagraph (A) shall specifically include (i) the total amount of child support payments collected as a result of services furnished during the fiscal year involved to individuals under section 454(6), (ii) the cost to the States and to the Federal Government of furnishing such services to those individuals, and (iii) the extent to which the furnishing of such services was successful in providing sufficient support to those individuals to assure that they did not require assistance under the State plan approved under part A.".

42 USC 654.

42 USC 601.

INCENTIVES TO REPORT EARNINGS UNDER AFDC PROGRAMS

42 USC 602.

SEC. 302. (a) Section 402(a)(8) of the Social Security Act is amended—

(1) by inserting "or" at the end of subparagraph (D) thereof; and

(2) by adding after subparagraph (D) the following new subparagraph:

"(E) any of the persons specified in clause (ii) of subparagraph (A) with respect to which there is a failure without good cause to make a timely report (as prescribed by the State plan) to the State agency;".

Effective date.
42 USC 602 note.

(b) The amendments made by subsection (a) shall take effect on the date of the enactment of this Act.

PRORATING OF SHELTER ALLOWANCE

SEC. 303. Part A of title IV of the Social Security Act is amended by adding at the end thereof the following new section:

"PRORATING OF SHELTER ALLOWANCE IN CERTAIN CASES WHERE CHILD LIVES WITH RELATIVE NOT LEGALLY RESPONSIBLE FOR HIS SUPPORT

42 USC 612.

"SEC. 412. (a) Notwithstanding any other provision of this part, a State plan for aid and services to needy families with children shall not be regarded as failing to comply with the requirements imposed under this part solely because, under such plan, in any case in which one or more children live in any household—

"(1)(A) in which the total income of such child or children and the closely related family members (as defined in subsection (b)) living in the same household equals or exceeds the standard of need under such plan for a family equal in number to the total number of such children and closely related family members in the same household, or (B) where the income of children and family members cannot be determined due to failure to cooperate, and

"(2) which (A) does not include a relative (specified in section 406(a)(1)) who is legally responsible for the support of the child or children, or (B) includes one or more such relatives who is legally responsible for the support of the child or children but none of whom is eligible for aid under the State plan because such relative is being supported by another person or under another program,

42 USC 606.

the amount of the aid furnished with respect to such child or children for shelter, utilities, and similar expenses, bears the same ratio to the total amount which would be furnished for such expenses, if all the closely related family members with whom such child or children are

living were eligible for such aid, as the number of such children bears to the total number of such children and closely related family members.

"(b) For purposes of subsection (a), the term 'closely related family members' of a child means those relatives of his who are specified in section 406(a)(1) and any other individual for whose support such a relative is legally responsible, but does not include any such relative or other individual (1) with respect to whom benefits are provided under another public program eligibility for which is based on need, or (2) whose presence in the home would not increase the total amount which would be allowed for shelter, utilities, and similar expenses if he was eligible for aid. "Closely related family members." 42 USC 606.

"(c) The amount of aid to families with dependent children for shelter, utilities, and similar expenses shall be identified, for purposes of this section, in the following manner:

"(1) If the State plan approved under this part provides for paying 100 per centum of the standard of need specified in the plan, and designates a portion of that standard, for families of specified sizes, to meet shelter, utilities, and similar expenses, then an amount equal to that portion shall be considered the total amount for such expenses for a family of the specified size.

"(2) If such plan provides for meeting less than 100 per centum of such standard, and designates a portion of that standard, for families of specified sizes, to meet such expenses, then an amount equal to that portion, multiplied by the proportion of the standard of need which such State pays as aid to families with dependent children, shall be considered the total amount for such expenses for a family of the specified size.

"(3) If such plan does not designate any portion of the standard of need for meeting such expenses, then such portion shall be prescribed by the Secretary, but in no event shall such portion exceed 30 per centum of the standard of need for a family of a specified size, multiplied by the proportion of such standard which the State pays as aid to families with dependent children.

"(d) For purposes of subsection (a), the total income of the child or children and the closely related family members (as defined in subsection (b)) shall be determined as it would be if all such individuals were applicants for aid under the State plan and shall not include any income which any such individual is obligated to apply to the support of any other individual not living in the household.".

SERVICES FOR DISABLED CHILDREN

SEC. 304. Section 1615 of the Social Security Act is amended by redesignating the second subsection (c) as subsection (e), and by striking out "October 1, 1979" in paragraph (1) of such subsection (e) and inserting in lieu thereof "October 1, 1982". 42 USC 1382d.

PUBLIC ASSISTANCE PAYMENTS TO TERRITORIAL JURISDICTIONS

SEC. 305. (a) Section 1108(a) of the Social Security Act is amended— *Ante*, p. 526. *Post*, p. 530.

(1) by striking out "with respect to the fiscal year 1972 and each fiscal year thereafter other than the fiscal year 1979" in paragraphs (1)(E), (2)(E), and (3)(E) and inserting in lieu thereof in each instance "with respect to each of the fiscal years 1972 through 1978"; and

(2) by striking out "with respect to the fiscal year 1979" in paragraphs (1)(F), (2)(F), and (3)(F) and inserting in lieu thereof in each instance "with respect to the fiscal year 1979 and each fiscal year thereafter".

Ante, pp. 526, 529.

(b) Section 1108(a) of such Act is further amended by striking out "under part A" in the matter preceding paragraph (1) and inserting in lieu thereof "under parts A and E".

42 USC 601, *ante*, p. 501.

(c) The last sentence of section 1118 of such Act is amended by striking out "when applied to quarters in the fiscal year ending September 30, 1979".

42 USC 1318.

PERIOD WITHIN WHICH CERTAIN CLAIMS MUST BE FILED

SEC. 306. (a) Part A of title XI of the Social Security Act is amended by adding after section 1131 the following new section:

"PERIOD WITHIN WHICH CERTAIN CLAIMS MUST BE FILED

42 USC 1320b-2.

"SEC. 1132. (a) Notwithstanding any other provision of this Act (but subject to subsection (b)), any claim by a State for payment with respect to an expenditure made during any calendar quarter by the State—

"(1) in carrying out a State plan approved under title I, IV, V, X, XIV, XVI, XIX, or XX of this Act, or

42 USC 301, 601, 701, 1201, 1351, 1381, 1396, 1397.

"(2) under any other provision of this Act which provides (on an entitlement basis) for Federal financial participation in expenditures made under State plans or programs,

shall be filed (in such form and manner as the Secretary shall by regulations prescribe) within the two-year period which begins on the first day of the calendar quarter immediately following such calendar quarter; and payment shall not be made under this Act on account of any such expenditure if claim therefor is not made within such two-year period; except that this subsection shall not be applied so as to deny payment with respect to any expenditure involving court-ordered retroactive payments or audit exceptions, or adjustments to prior year costs.

"(b) The Secretary shall waive the requirement imposed under subsection (a) with respect to the filing of any claim if he determines (in accordance with regulations) that there was good cause for the failure by the State to file such claim within the period prescribed under subsection (a). Any such waiver shall be only for such additional period of time as may be necessary to provide the State with a reasonable opportunity to file such claim. A failure to file a claim within such time period which is attributable to neglect or administrative inadequacies shall be deemed not to be for good cause.".

Effective date. 42 USC 1320b-2 note.

(b)(1) The amendment made by subsection (a) shall be effective only in the case of claims filed on account of expenditures made in calendar quarters commencing on or after October 1, 1979.

(2) In the case of claims filed prior to the date of enactment of this Act on account of expenditures described in section 1132 of the Social Security Act made in calendar quarters commencing prior to October 1, 1979, there shall be no time limit for the payment of such claims.

(3) In the case of such expenditures made in calendar quarters commencing prior to October 1, 1979, for which no claim has been filed on or before the date of enactment of this Act, payment shall not be made under this Act on account of any such expenditure unless

claim therefor is filed (in such form and manner as the Secretary shall by regulation prescribe) prior to January 1, 1981.

(4) The provisions of this subsection shall not be applied so as to deny payment with respect to any expenditure involving adjustments to prior year costs or court-ordered retroactive payments or audit exceptions. The Secretary may waive the requirements of paragraph (3) in the same manner as under section 1132(b) of the Social Security Act.

(c) Notwithstanding any other provision of law, there shall be no time limit for the filing or payment of such claims except as provided in this section, unless such other provision of law, in imposing such a time limitation, specifically exempts such filing or payment from the provisions of this section. 42 USC 1320b-2 note.

INCENTIVES FOR STATES TO COLLECT CHILD SUPPORT OBLIGATIONS

SEC. 307. (a) The heading of section 458 of the Social Security Act is amended by inserting "STATES AND" after "TO". 42 USC 658.

(b) Section 458(a) of such Act is amended—

(1) by inserting "or a State on its own behalf makes," after "another State,", and

(2) by striking out "or such other State" and inserting in lieu thereof ", such other State, or such State (in the case of a State which on its own behalf makes such enforcement and collection)".

(c) Section 458 of such Act is further amended by adding at the end thereof the following new subsection:

"(c) No payment under the preceding provisions of this section shall be made to any State or political subdivision thereof with respect to any amount collected and distributed by it unless such amount was collected and distributed in accordance with the State plan of the State approved by the Secretary as meeting the conditions required by section 454.". 42 USC 654.

EXCHANGE OF INFORMATION ON TERMINATED OR SUSPENDED PROVIDERS

SEC. 308. (a) Section 1862(d) of the Social Security Act is amended by adding at the end thereof the following new paragraph: 42 USC 1395y.

"(4) The Secretary shall promptly notify each State agency which administers or supervises the administration of a State plan approved under title XIX of any determination made under the provisions of this subsection.". 42 USC 1396.

(b) Section 1866(c) of such Act is amended by adding at the end thereof the following new paragraph: 42 USC 1395cc.

"(3) Where an agreement filed under this title by a provider of services has been terminated by the Secretary, the Secretary shall promptly notify each State agency which administers or supervises the administration of a State plan approved under title XIX of such termination.".

(c) Section 1902(a) of such Act is amended— 42 USC 1396a.

(1) by striking out "and" at the end of paragraph (39);

(2) by striking out the period at the end of paragraph (40) and inserting in lieu thereof "; and"; and

(3) by inserting after paragraph (40) the following new paragraph:

"(41) provide that whenever a provider of services or any other person is terminated, suspended, or otherwise sanctioned or prohibited from participating under the State plan, the State agency shall promptly notify the Secretary of such action.".

POSTPONEMENT OF IMPOSITION OF CERTAIN PENALTIES RELATING TO CHILD SUPPORT REQUIREMENTS

42 USC 603 note. 42 USC 601. 42 USC 603.

SEC. 309. No reduction in the amount payable to any State under title IV of the Social Security Act with respect to fiscal year 1977 or fiscal year 1978 shall be made prior to October 1, 1980, on account of the provisions of section 403(h) of such Act.

CONTINUING MEDICAID ELIGIBILITY FOR CERTAIN RECIPIENTS OF VETERANS' ADMINISTRATION PENSIONS

SEC. 310. (a)(1) Part A of title XI of the Social Security Act is amended by adding after section 1132 (as added by section 305 of this Act) the following new section:

Ante, p. 530.

"APPLICANTS OR RECIPIENTS UNDER PUBLIC ASSISTANCE PROGRAMS NOT TO BE REQUIRED TO MAKE ELECTION RESPECTING CERTAIN VETERANS' BENEFITS

42 USC 1320b-3.

"SEC. 1133. (a) Notwithstanding any other provision of law (but subject to subsection (b)), no individual who is an applicant for or recipient of aid or assistance under a State plan approved under title I, X, XIV, or XVI, or part A of title IV, or of benefits under the Supplemental Security Income program established by title XVI shall—

42 USC 301, 1201, 1351, 1381, 601.

"(1) be required, as a condition of eligibility for (or of continuing to receive) such aid, assistance, or benefits, to make an election under section 306 of the Veterans' and Survivors' Pension Improvement Act of 1978 with respect to pension paid by the Veterans' Administration, or

38 USC 521 note.

"(2) by reason of failure or refusal to make such an election, be denied (or suffer a reduction in the amount of) such aid, assistance, or benefits.

"(b) The provisions of subsection (a) shall be applicable only with respect to an individual, who is an applicant for or recipient of aid, assistance, or benefits described in subsection (a), during a period with respect to which there is in effect—

"(1) in case such individual is an applicant for or recipient of aid or assistance under a State plan referred to in subsection (a), in the State having such plan, or

"(2) in case such individual is an applicant for or recipient of benefits under the Supplemental Security Income program established by title XVI, in the State in which the individual applies for or receives such benefits,

42 USC 1381.

42 USC 1396.

a State plan for medical assistance, approved under title XIX, under which medical assistance is available to such individual only for periods for which such individual is a recipient of aid, assistance, or benefits described in subsection (a).".

Effective date. 42 USC 1320 b-3 note.

(2) The amendment made by paragraph (1) shall be effective on and after January 1, 1979; except that nothing contained in such amendment shall be construed to authorize or require any payment (or increase in payment) of any aid or assistance or benefits referred to in section 1133(a) of the Social Security Act (as added by paragraph (1))

for any benefit period which begins prior to the date of enactment of this Act.

(b)(1)(A) For purposes of section 1902(a)(10)(A) of the Social Security Act, any individual who, prior to the date of enactment of this Act and for the month of December 1978, was eligible for and received aid or assistance under a State plan approved under title I, X, XIV, or XVI, or part A of title IV of such Act, or was eligible for and received supplemental security income benefits under title XVI of such Act (or a supplementary payment described in section 13(c) of Public Law 93-233), and was also in receipt of (or was a dependent, for purposes of chapter 15 of title 38, United States Code, as in effect on December 31, 1978, of an individual in receipt of) pension from the Veterans' Administration for the month of December 1978 shall (subject to subparagraph (B)) be deemed to have been receiving such aid, assistance, supplemental security income, or supplementary payment, for each calendar month thereafter (prior to the month in which the provisions of this subparagraph cease to be effective with respect to him as determined under subparagraph (B)), if such individual would have been eligible therefor in December 1978 and in the month in which the provisions of this subparagraph cease to be effective with respect to him as determined under subparagraph (B) had the increase in income of such individual (or of the family of which such individual is a member), attributable to an election (made by such individual or another member of such individual's family) under section 306 of the Veterans' and Survivors' Pension Improvement Act of 1978, not occurred.

42 USC 1396a note.
42 USC 1396a.
42 USC 301, 1201, 1351, 1381, 601.
42 USC 1396a note.
38 USC 501 *et seq.*
38 USC 521 note.

(B)(i) The provisions of subparagraph (A) shall take effect on January 1, 1979, and shall cease to be effective, in the case of any individual, for and after the first calendar month beginning more than 10 days after an "informed election" (as defined in subdivision (ii) of this subparagraph) has been made by such individual (or, if such individual is not eligible to make such an election, by a member of such individual's family who is eligible to make such an election which affects such individual's eligibility for aid, assistance, or benefits under a plan or program referred to in subparagraph (A)).

Effective date.

(ii) The term "informed election" means an election made under section 306 of the Veterans' and Survivors' Pension Improvement Act of 1978 (or a reaffirmation of such an election which previously was made under such section 306) after the date of compliance by the Administrator of Veterans' Affairs (hereinafter in this section referred to as the "Administrator") with the provisions of paragraph (2)(A) with respect to the individual concerned. An individual who fails, within the time limits prescribed in paragraph (2)(B), to disaffirm an election previously made by such individual under such section 306 shall be deemed, for purposes of this section and such section 306, to have reaffirmed such election.

"Informed election."
38 USC 521 note.

(2)(A) The Administrator shall provide to each individual to whom section 1133 of the Social Security Act (as added by subsection (a)(1) of this section) applies and who is eligible to make or has made an election under section 306 of the Veterans' and Survivors' Pension Improvement Act of 1978, a written notice, in clear and understandable language, which (i) describes the consequences to such individual (and possibly to such individual's family), in terms of a determination or possible determination of ineligibility for medical assistance under a State plan approved under title XIX of the Social Security Act, of making an election with respect to pension under such section 306, (ii) describes the provisions of subparagraph (B) of this paragraph and

42 USC 1320b-3 note.
Ante, p. 532.
38 USC 521 note.
42 USC 1396.

subsection (a) of this section, (iii) sets forth other relevant information that would be helpful to such individual in making an informed decision concerning such an election or the disaffirmation thereof, and (iv) in the case of any individual who has made such an election, is accompanied by a form prepared for the purpose of enabling such individual to file with the Administrator a written disaffirmation of such an election.

(B) Notwithstanding any other provision of law—

Ante, p. 532.

(i) any individual to whom section 1133 of the Social Security Act (as added by subsection (a)(1) of this section) applies may, within the 90-day period beginning with the day that there is mailed to such individual (at such individual's last known mailing address) a notice referred to in subparagraph (A), disaffirm an election previously made by such individual under section 306 of the Veterans' and Survivors' Pension Improvement Act of 1978 by completing and mailing to the Administrator the form furnished such individual for such purpose by the Administrator pursuant to subparagraph (A),

38 USC 521 note.

(ii) whenever any such individual files such a disaffirmation with the Administrator, the amount of pension payable to such individual shall be adjusted, beginning with the first calendar month which commences after the receipt by the Administrator of such disaffirmation, to the amount that such pension would have been if such an election by such individual had not been made,

(iii) any individual who has filed a disaffirmation, pursuant to this subparagraph, of an election made by such individual under such section 306 may again make an election thereunder, but such subsequent election may not be disaffirmed under this subsection, and

(iv) no indebtedness to the United States, as a result of the disaffirmation by an individual, pursuant to this subparagraph, of an election made by such individual under such section 306 shall be considered to arise from the payment of pension pursuant to such an election.

(C) The Administrator shall promptly advise the Secretary of Health, Education, and Welfare, and provide identification of the individuals involved and other pertinent information with respect to (i) disaffirmations of elections made by individuals pursuant to subparagraph (B), (ii) individuals who, by failing to disaffirm within the 90-day period prescribed in subparagraph (B), are deemed to have reaffirmed elections previously made, and (iii) individuals who, after having disaffirmed an election under subparagraph (B), subsequently again make an election under section 306 of the Veterans' and Survivors' Pension Improvement Act of 1978. The Secretary, upon receipt of any such information with respect to an individual, shall promptly notify the appropriate agencies administering State plans approved under title I, X, XIV, XIX, and part A of title IV of the Social Security Act, and State agencies making supplemental payments pursuant to section 1616 of such Act or an agreement entered into pursuant to section 212(a) of Public Law 93-66.

38 USC 521 note.

42 USC 301, 1201, 1351, 1396, 601. 42 USC 1382e. 87 Stat. 155.

Approved June 17, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 96-136 (Comm. on Ways and Means), No. 96-136, Pt. 2 (Comm. on Appropriations), and No. 96-900 (Comm. of Conference).
SENATE REPORT No. 96-336 (Comm. on Finance).
CONGRESSIONAL RECORD:
Vol. 125 (1979): Aug. 2, considered and passed House.
Oct. 25, 29, considered and passed Senate, amended.
Vol. 126 (1980): June 13, House and Senate agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:
Vol. 16, No. 25 (1980): June 17, Presidential statement.

Public Law 96-273
96th Congress

An Act

June 17, 1980
[H.R. 4453]

To amend the Saccharin Study and Labeling Act to extend to June 30, 1981, the ban on actions by the Secretary of Health, Education, and Welfare respecting saccharin.

Saccharin Study and Labeling Act, amendment.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3 of the Saccharin Study and Labeling Act (21 U.S.C. 348 note) is amended by striking out "During the 18-month period beginning on the date of the enactment of this Act" and inserting in lieu thereof "During the period beginning on the date of the enactment of this Act and ending June 30, 1981".

Approved June 17, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-348 (Comm. on Interstate and Foreign Commerce).
SENATE REPORT No. 96-715 (Comm. on Labor and Human Resources).
CONGRESSIONAL RECORD:
Vol. 125 (1979): July 23, 24, considered and passed House.
Vol. 126 (1980): June 9, considered and passed Senate.

Public Law 96-274
96th Congress

An Act

Pertaining to the inheritance of trust or restricted land on the Standing Rock Sioux Reservation, North Dakota and South Dakota.

June 17, 1980
[H.R. 2102]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That to the extent that the laws of descent and distribution of the State in which trust or restricted land is located on the Standing Rock Indian Reservation in North Dakota and South Dakota (hereinafter the "reservation") are inconsistent with this Act, the provisions of this Act shall govern the right to inherit such trust or restricted land.

Standing Rock Sioux Reservation, N. Dak.-S. Dak.

SEC. 2. Only the Standing Rock Sioux Tribe of North Dakota and South Dakota (hereinafter the "tribe") or persons who are (a) enrolled members of the tribe, (b) members of a federally recognized Indian tribe, or (c) otherwise recognized as Indians by the Secretary of the Interior (hereinafter the "Secretary") shall be entitled to receive by devise or descent any interest in trust or restricted land within the boundaries of the reservation as defined by the Act of March 2, 1889 (25 Stat. 888), except as provided in section 4 of this Act.

Inheritance of trust or restricted land.

SEC. 3. (a) Whenever any Indian dies possessed of any interest in trust or restricted land within the reservation and the trust or restricted land has not been devised by a will approved by the Secretary pursuant to section 2 of the Act of June 25, 1910 (36 Stat. 856), as amended (25 U.S.C. 373) and which is consistent with the provisions of section 2 of this Act, such interest shall descend to the following persons, subject to their being eligible heirs pursuant to section 2 of this Act:

Eligible heirs.

(1) one-half of the interest shall descend to the surviving spouse and the other one-half shall descend in equal shares to the children of the decedent and to the issue of any deceased child of the decedent by right of representation;

(2) if there is no surviving spouse, the interest shall descend in equal shares to the children of the decedent and to the issue of any deceased child of the decedent by right of representation;

(3) if there are no surviving children or issue of any child, the interest shall descend to the surviving spouse;

(4) if there is no surviving spouse and no surviving children or issue of any child, the interest shall descend to the surviving parents or parent of the decedent;

(5) if there is no surviving spouse, and no surviving children or issue of any child, and no surviving parent, the interest shall descend equally to the brothers and sisters of the decedent; and,

(6) if there is no surviving spouse, no surviving children or issue of any child, no surviving parent, and no surviving brothers or sisters, the interest shall escheat to the tribe.

(b) Any interest which descends in accordance with this section shall be subject to the right of a non-Indian surviving spouse as provided in section 4(a) of this Act.

(c) As used in this section, the words "children" and "issue" include adopted children and children of unwed parents where the Secretary

"Children" and "issue."

nages tightly bound

determines that paternity has been acknowledged or established, except that (1) a child may not inherit by intestate succession from or through a parent whose parental rights with respect to said child have been terminated pursuant to lawful authority and (2) a parent may not inherit by intestate succession from or through a child with respect to which such parent's parental rights have been so terminated.

Non Indian surviving spouse.

SEC. 4. (a) Notwithstanding the provisions of section 2 of this Act, the non-Indian surviving spouse of an Indian decedent who dies possessed of any interest in trust or restricted lands within the reservation shall be entitled to take not more than an undivided one-half interest in all such trust or restricted lands during his or her lifetime, but the remainder of such interest shall descend as provided in section 3 of this Act.

Tribal payment to Secretary.

(b) If a decedent has devised an interest in trust or restricted land located within the reservation to a person prohibited by section 2 from acquiring an interest in such trust or restricted land and the consequence of such prohibition is that the interest in land would escheat to the tribe pursuant to section 3(a)(6) of this Act, the devise shall be prohibited only if, while the estate is pending before the Secretary, the tribe pays to the Secretary on behalf of such devisee the fair market value of such interest as determined by the Secretary as of the date of the decedent's death. The value of any life estate reserved to a surviving spouse under the provisions of subsection (a) of this section shall be reflected in the Secretary's determination. The interest for which such payment is made by the tribe shall thereafter be held by the United States in trust for the tribe.

Life estate value reserved to a surviving spouse.

SEC. 5. The provisions of this Act shall apply only to estates of decedents whose deaths occur on or after the date of enactment of this Act.

Approved June 17, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-743 (Comm. on Interior and Insular Affairs).
SENATE REPORT No. 96-762 (Comm. on Indian Affairs).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Mar. 3, considered and passed House.
May 22, considered and passed Senate, amended, in lieu of S. 2102.
June 9, House concurred in Senate amendments.

Public Law 96-275
96th Congress

An Act

To protect the confidentiality of Shippers' Export Declarations, and to standardize export data submission and disclosure requirements.

June 17, 1980
[H.R. 6842]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 301 of title 13, United States Code, is amended by adding at the end thereof the following new subsection:

Shippers' Export Declarations, confidentiality

"(g) Shippers' Export Declarations (or any successor document), wherever located, shall be exempt from public disclosure unless the Secretary determines that such exemption would be contrary to the national interest.".

SEC. 2. Section 4199 of the Revised Statutes (46 U.S.C. 93) is amended to read as follows:

Export data submission and disclosure requirement standardization

"SEC. 4199. (a) Copies of bills of lading or equivalent commercial documents relating to all cargo encompassed by the manifest required under this chapter shall be attached to such manifest and delivered to the appropriate officer of the United States Customs Service at the time such manifest is delivered.

"(b) The following information shall be included on such manifest, or on attached copies of bills of lading or equivalent commercial documents:

"(1) Name and address of shipper.
"(2) Description of the cargo.
"(3) Number of packages and gross weight.
"(4) Name of vessel or carrier.
"(5) Port of exit.
"(6) Port of destination.

"(c) Except as provided in subsection (d), the following information contained on such manifest, or on attached copies of bills of lading or equivalent commercial documents, shall be available for public disclosure:

"(1) Name and address of shipper, unless the shipper has made a biennial certification claiming confidential treatment pursuant to procedures adopted by the Secretary of the Treasury.
"(2) General character of the cargo.
"(3) Number of packages and gross weight.
"(4) Name of vessel or carrier.
"(5) Port of exit.
"(6) Port of destination.
"(7) Country of destination.

Disclosure exemptions

"(d) The information listed in subsection (c) shall not be available for public disclosure if—

"(1) the Secretary of the Treasury makes an affirmative finding on a shipment-by-shipment basis that disclosure is likely to pose a threat of personal injury or property damage; or
"(2) the information is exempt under the provisions of section 552(b)(1) of title 5 of the United States Code.

Access procedures, establishment.

"(e) The Secretary of the Treasury, in order to allow for the timely dissemination and publication of the information listed in subsection (c) above, is authorized to establish procedures to provide access to manifests, or attached bills of lading or equivalent commercial documents which shall include provisions for adequate protection against the public disclosure of information not available for public disclosure from such manifests or attached bills of lading, or equivalent commercial documents.".

13 USC 301 note.

SEC. 3. Nothing in this Act shall be construed as authorizing the withholding of information from Congress.

Effective dates. 13 USC 301 note.

SEC. 4. (a) Except as provided in subsection (b), this Act, and the amendments made by this Act, shall become effective on the later of July 1, 1980, or the date of enactment of this Act.

(b) The amendment made by section 2 shall become effective on the date which is forty-five days after the date of enactment of this Act.

Approved June 17, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-928, pt. 1 (Comm. on Post Office and Civil Service).
SENATE REPORT No. 96-796 accompanying S. 2419 (Comm. on Governmental Affairs).
CONGRESSIONAL RECORD, Vol. 126 (1980):
May 12, considered and passed House.
June 11, considered and passed Senate in lieu of S. 2419.

Public Law 96-276
96th Congress

An Act

To amend the Egg Research and Consumer Information Act and to establish an intergovernmental study group to analyze recent events in the silver cash and futures markets.

June 17, 1980
[H.R. 6285]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Egg Research and Consumer Information Act Amendments of 1980".

Egg Research and Consumer Information Act Amendments of 1980.
7 USC 2701 note.

SEC. 2. Section 8(a) of the Egg Research and Consumer Information Act (7 U.S.C. 2707(a)) is amended by deleting the word "eighteen" in such section and inserting in lieu thereof the word "twenty".

SEC. 3. Section 8(b) of the Egg Research and Consumer Information Act (7 U.S.C. 2707(b)) is amended by deleting the period at the end of the paragraph and inserting the following: ": *Provided further,* That two members of the Egg Board, and alternates therefor, shall be consumers or representatives of consumers, if approved by egg producers voting in a referendum on an amendment to the order. Such consumer appointments shall be made by the Secretary from nominations submitted by eligible organizations. If the Secretary determines that such nominees are not members of either a bona fide consumer organization or do not represent consumers, the Secretary may appoint such consumers or representatives of consumers as deemed necessary to properly represent the interest of consumers. Consumer members of the Egg Board shall be voting members.".

Egg Board, consumer members.

SEC. 4. Section 8(e) of the Egg Research and Consumer Information Act (7 U.S.C. 2707(e)) is amended by striking the third sentence and inserting in lieu thereof the following: "For fiscal year 1981, the rate of assessment prescribed by the order shall not exceed 7½ cents per case of commercial eggs or the equivalent thereof. For each fiscal year thereafter, the rate of assessment may be increased by no more than three-quarters of a cent per case of commercial eggs or the equivalent thereof: *Provided,* That the rate of assessment shall not exceed 10 cents per case of commercial eggs or the equivalent thereof.".

Rate of assessment.

SEC. 5. Section 9 of the Egg Research and Consumer Information Act (7 U.S.C. 2708) is amended by adding at the end thereof a new sentence as follows: "The failure of egg producers to approve an amendment to any Egg Research and Promotion Order shall not be deemed to invalidate such order.".

SEC. 6. Section 15 of the Egg Research and Consumer Information Act (7 U.S.C. 2714) is amended by striking section 15 of the Act and inserting in lieu thereof the following:

"SEC. 15. (a) The several district courts of the United States are vested with jurisdiction specifically to enforce, and to prevent and restrain any person from violating, any order or regulation made or issued pursuant to this Act. Any civil action authorized to be brought under this subsection shall be referred to the Attorney General for appropriate action: *Provided,* That nothing in this Act shall be

Enforcement of orders.

Civil actions, referral to Attorney General.

construed as requiring the Secretary to refer to the Attorney General violations of this Act whenever he believes that the administration and enforcement of the program would be adequately served by administrative action pursuant to paragraph (b) of this section or suitable written notice or warning to any person committing such violations.

Civil penalty; cease-and-desist order.

"(b)(1) Any person who violates any provisions of any order or regulation issued by the Secretary pursuant to this Act, or who fails or refuses to pay, collect, or remit any assessment or fee duly required of him thereunder, may be assessed a civil penalty by the Secretary of not less than $500 or more than $5,000 for each such violation. Each violation shall be a separate offense. In addition to or in lieu of such civil penalty the Secretary may issue an order requiring such person to cease and desist from continuing such violation or violations. No penalty shall be assessed or cease and desist order issued unless such person is given notice and opportunity for a hearing before the Secretary with respect to such violation, and the order of the Secretary assessing a penalty or imposing a cease and desist order shall be final and conclusive unless the affected person files an appeal from the Secretary's order with the appropriate United States court of appeals.

Hearing.

Appeal.

"(2) Any person against whom a violation is found and a civil penalty assessed or cease and desist order issued under paragraph (b)(1) of this section may obtain review in the court of appeals of the United States for the circuit in which such person resides or has his place of business or in the United States Court of Appeals for the District of Columbia Circuit by filing a notice of appeal in such court within thirty days from the date of such order and by simultaneously sending a copy of such notice by certified mail to the Secretary. The Secretary shall promptly file in such court a certified copy of the record upon which such violation was found. The findings of the Secretary shall be set aside only if found to be unsupported by substantial evidence.

Final order, noncompliance penalty.

"(3) Any person who fails to obey a cease and desist order after it has become final and unappealable, or after the appropriate court of appeals has entered final judgment in favor of the Secretary, shall be subject to a civil penalty assessed by the Secretary, after opportunity for a hearing and for judicial review pursuant to the procedures specified in paragraphs (b) (1) and (2) of this section, of not more than $500 for each offense, and each day during which such failure continues shall be deemed a separate offense.

Referral to Attorney General.

"(4) If any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order, or after the appropriate court of appeals has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General who shall recover the amount assessed in any appropriate district court of the United States. In such action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.".

SEC. 7. The Commodity Exchange Act is amended by adding at the end thereof a new section 21 to read as follows:

Joint working group.
7 USC 4a note.

"SEC. 21. The Commission shall establish a joint working group with the Federal Reserve Board, Department of the Treasury, and Securities and Exchange Commission to analyze the various aspects of the events in the silver cash and futures markets during the period of September 1979 through March 1980. The joint working group will prepare a report of its findings that shall include, but not be limited

Report.

to, a description of the causes of this situation, an appraisal of the adequacy of consultation during this period between the members of the joint working group, and recommendations for legislative changes that could prevent a recurrence of these or similar events in any futures market. The joint working group shall submit its report to the appropriate committees of Congress by October 1, 1980.". Submittal to congressional committees.

Approved June 17, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-752 (Comm. on Agriculture).
SENATE REPORT No. 96-765 (Comm. on Agriculture, Nutrition, and Forestry).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Feb. 19, considered and passed House.
June 4, considered and passed Senate, amended.
June 10, House agreed to Senate amendments.

79-194 O—81—pt. 1——38 : QL3

Public Law 96-277
96th Congress

An Act

June 17, 1980
[H.R. 3979]

To repeal and amend certain laws regulating trade between Indians and certain Federal employees.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 437 of title 18, United States Code, is amended to read as follows:

18 USC 437.

"§ 437. Federal employees contracting or trading with Indians

Fines and imprisonment.

"(a) Except as provided in subsection (b), whoever, being an officer, employee, or agent of the Bureau of Indian Affairs or the Indian Health Service has (other than as a lawful representative of the United States) any interest, in such officer, employee, or agent's name, or in the name of another person where such officer, employee, or agent benefits or appears to benefit from such interest—

"(1) in any contract made or under negotiation with any Indian, for the purchase or transportation or delivery of goods or supplies for any Indian, or

"(2) in any purchase or sale of any service or real or personal property (or any interest therein) from or to any Indian, or colludes with any person attempting to obtain any such contract, purchase, or sale, shall be fined not more than $5,000 or imprisoned not more than six months or both, and shall be removed from office, notwithstanding any other provision of law concerning termination from Federal employment.

Rules permitting sale of property.

"(b)(1) Notwithstanding the provisions of subsection (a) and in accordance with paragraph (2) of this subsection, the President or his designee may prescribe rules and regulations under which any officer, employee, or agent of the Bureau of Indian Affairs or of the Indian Health Service may purchase from or sell to any Indian any service or any real or personal property or any interest therein.

"(2) No rule or regulation prescribed pursuant to paragraph (1) of this subsection shall permit any officer, employee, or agent referred to in that paragraph—

"(A) to make any purchase from or sale to an Indian of any real or personal property (or any interest therein) for the purpose of commercially selling, reselling, trading, or bartering such property; or

"(B) to have any interest in any purchase or sale involving property or funds which are either held in trust by the United States for Indians or which are purchased, sold, utilized, or received in connection with a contract or grant to an Indian from the Bureau of Indian Affairs or the Indian Health Service, if such officer, employee, or agent is employed in the office or installation of such Bureau or Service which recommends, approves, executes, or administers such transaction, grant, or contract on behalf of the United States: *Provided,* That such officer, employee, or agent may have such an interest if such purchase or sale is approved by the Secretary of the Interior in the case of a

Bureau of Indian Affairs officer, employee, or agent, or by the Secretary of Health, Education, and Welfare in the case of an Indian Health Service officer, employee, or agent, or a designee of such Secretary who is not employed at such office or installation: *Provided further,* That (1) any such designee may not be a relative by blood or marriage of the officer, employee, or agent engaging in such purchase or sale; (2) with respect to purchases or sales by any officer, employee, or agent employed at the reservation, agency, or service unit level, such designee must be employed at not less than one grade level higher than such officer, employee, or agent at the Washington, District of Columbia, central office or at an area office installation other than that with authority over such reservation, agency, or service unit; (3) with respect to purchases or sales by any officer, employee, or agent employed at the area office level, such designee must be employed at not less than one grade level higher than such officer, employee, or agent at the Washington, District of Columbia, central office; and (4) the Secretary must approve purchases or sales by any officer, employee, or agent employed at the Washington, District of Columbia, central office; or

"(C) to acquire any interest in property held in trust, or subject to restriction against alienation imposed, by the United States unless the conveyance or granting of such interest in such property is otherwise authorized by law.

"(c) Except as provided in subsection (b)(2), nothing contained in this section shall be construed as preventing any officer, employee, or agent of the Bureau of Indian Affairs or the Indian Health Service who is an Indian, of whatever degree of Indian blood, from obtaining or receiving any benefit or benefits made available to Indians generally or to any member of his or her particular tribe, under any Act of Congress, nor to prevent any such officer, employee, or agent who is an Indian from being a member of or receiving benefits by reason of his or her membership in any Indian tribe, corporation, or cooperative association organized by Indians, when authorized under such rules and regulations as the Secretary of the Interior or the Secretary of Health, Education, and Welfare, or their designee shall prescribe. Indian benefit entitlement.

"(d) For purposes of this section, the term 'Indian' means any member of an Indian tribe recognized as eligible for the services provided by the Bureau of Indian Affairs who is residing on a Federal Indian Reservation, on land held in trust by the United States for Indians, or on land subject to a restriction against alienation imposed by the United States. The term shall also include any such tribe and any Indian owned or controlled organization located on such a reservation or land. "Indian."

"(e) For purposes of this section, the term 'Bureau of Indian Affairs' means the Bureau of Indian Affairs and the Office of the Assistant Secretary for Indian Affairs, both in the Department of the Interior.". "Bureau of Indian Affairs."

SEC. 2. Section 2078 of the Revised Statutes (25 U.S.C. 68) and the Act of June 19, 1939 (53 Stat. 840; 25 U.S.C. 68a and 441), are hereby repealed. Repeals. 25 USC 87a.

SEC. 3. The Secretary of the Interior may review any transaction, other than one involving the sale of property held in trust or subject to a restriction against alienation imposed by the United States, occurring prior to the effective date of this Act and, if the Secretary finds that such transaction would have been valid had the provisions of this Act been in effect at the time of such transaction, the Validity of transaction, declaration by Secretary of Interior. 18 USC 437 note.

Secretary may declare such transaction to be valid, subject to all valid transactions subsequent to such time. The Secretary may issue or execute such documents as may be necessary or desirable to evidence the validity of such a transaction. A declaration of validity of a transaction pursuant to this section shall be conclusive evidence of such validity notwithstanding the provisions of section 437 of title 18, United States Code; section 2078 of the Revised Statutes; section 14 of the Act of June 30, 1834 (4 Stat. 738); and section 10 of the Act of June 22, 1874 (18 Stat. 177), which may have been in effect at the time of such transaction.

Ante, p. 544, 25 USC 68.

Effective date. 18 USC 437 note.

SEC. 4. The provisions of this Act shall take effect sixty days after the date of enactment of this Act.

Wa-He-Lute Indian School, tract of land.

SEC. 5. (a) On and after the effective date of this Act, the following tract of land shall be held by the Secretary of the Interior for the Wa-He-Lute Indian School for its use as an Indian school and community center for educational or cultural purposes:

Part of Government lot 2, section 8, township 18 north, range 1 east, Willamette meridian, Thurston County, Washington, described more particularly as follows: Government lot 2, section 8, township 18 north, range 1 east, Willamette meridian, Thurston County, Washington, except excluding that portion which begins at the northeast corner of the William Packwood Donation Claim Numbered 37, thence south along the east line of said claim, 655 feet to the point of beginning, thence south 655 feet; thence east 420 feet; thence north 655 feet; thence west 420 feet to place of beginning; all in section 8, township 18 north, range 1 east, Willamette meridian, except including a strip of land 0.7 foot in width, lying along the north boundary of said excluded tract, acquired by the United States of America on February 23, 1942, by Declaration of Taking filed in United States District Court, Western District of Washington, Southern Division.

Title to land.

(b) Title to the land described in subsection (a) shall remain in the United States under the administration of the Secretary of the Interior who shall hold the above-described tract of land for the Wa-He-Lute Indian School so long as it is used for any of the above-mentioned purposes. At such time as the land ceases to be used for the above purposes, title thereto shall be taken in trust for the benefit of Willy Frank, Nisqually Enrollee No. 19 (November 8, 1976), or his heirs.

Approved June 17, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-653 (Comm. on Interior and Insular Affairs).
SENATE REPORT No. 96-629 (Comm. on Indian Affairs).
CONGRESSIONAL RECORD:
Vol. 125 (1979): Nov. 27, considered and passed House.
Vol. 126 (1980): Mar. 19 considered and passed Senate, amended.
June 9, House concurred in Senate amendments Nos. 1 through 17 and concurred in Senate amendment No. 18 with amendments.
June 12, Senate concurred in House amendments.

Public Law 96-278
96th Congress

Joint Resolution

To authorize and request the President to proclaim June 27, 1980, as "Helen Keller Day".

June 17, 1980
[S.J. Res. 127]

Whereas, Helen Keller was left incurably blind and deaf at the age of nineteen months;

Whereas, through her own determination and faith, and through the patience and understanding of her devoted teacher, Anne Sullivan, Helen Keller overcame the disability of blindness and deafness, became fluent in the use of sign language, mastered the Braille alphabet, and learned to speak;

Whereas, after her personal victory over her disabilities, Helen Keller turned her life and ambitions to the services of others, demonstrating to the world that her disabilities were minor compared to her talent and abilities;

Whereas, for more than a half century, Helen Keller has been a symbol of courage and faith serving to encourage and benefit millions of her fellow handicapped in America and throughout the world, serving to educate the nonhandicapped to the potential of handicapped persons;

Whereas, with limitless stamina and energy, Helen Keller dedicated her life to others, giving unceasingly—speaking, writing, traveling, and working constantly to improve the conditions of deaf and blind people;

Whereas, as counselor to the American Foundation for the Blind, she guided programs to advance economic, cultural, and societal opportunities of deaf and blind persons throughout the United States and was instrumental in launching a new era of work to advance these opportunities;

Whereas, through the Helen Keller World Crusade for the Blind, Helen Keller inspired programs for the education and rehabilitation of blind persons around the globe and became the primary force which led to increased awareness of the problems faced by the handicapped;

Whereas, wherever she went Helen Keller was received with a massive outpouring of love and admiration, being honored by heads of state, and being acclaimed by all;

Whereas, Helen Keller's spirit will endure as long as man can read and stories can be told of the woman who showed the world that there are no boundaries to courage and faith; and

Whereas, June 27, 1980, marks the one hundredth anniversary of Helen Keller's birth in Tuscumbia, Alabama: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States is authorized and requested to issue a proclamation

Helen Keller Day.
Designation authorization.

designating June 27, 1980, as "Helen Keller Day" and encouraging appropriate Government agencies to foster the recognition of the significance of Helen Keller's achievements on that day with appropriate ceremonies, programs, and activities.

Approved June 17, 1980.

LEGISLATIVE HISTORY:

SENATE REPORT No. 96-566 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Feb. 19, considered and passed Senate.
June 5, considered and passed House.

Public Law 96-279
96th Congress

Joint Resolution

Designating the week beginning June 22, 1980, as "National Athletic Boosters Week".

June 18, 1980
[H.J. Res. 442]

Whereas athletic programs are a vital means of keeping youth in good physical shape, in teaching good sportsmanship, and in learning cooperation;

Whereas athletic development begins at an early age, commonly through school and community sponsored activities;

Whereas school athletic and physical education programs throughout America are facing serious financial difficulties as the result of many problems including inflation and the reorientation of programs to equalize programs for boys and girls;

Whereas to offset this growing crisis, school and community organizations across the Nation have been formed and have been extremely effective in boosting and encouraging athletic programs;

Whereas thousands of volunteer members learn how to work effectively in supporting athletic programs; and

Whereas there is a rising movement across the Nation to undertake support of these programs: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning June 22, 1980, is designated as "National Athletic Boosters Week" and the President is requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

National Athletic Boosters Week Designation.

Approved June 18, 1980.

LEGISLATIVE HISTORY:

CONGRESSIONAL RECORD, Vol. 126 (1980):
Feb. 25, considered and passed House.
June 13, considered and passed Senate in lieu of S.J. Res. 177.

Public Law 96-280
96th Congress

Joint Resolution

June 18, 1980
[S.J. Res. 89]

Permitting the supply of additional low enriched uranium fuel under international agreements for cooperation in the civil uses of nuclear energy, and for other purposes.

22 USC 3201 note.

Whereas the Nuclear Non-Proliferation Act of 1978 urges the United States to provide a reliable supply of nuclear fuel to those nations which adhere to policies designed to prevent the proliferation of nuclear weapons; and

Whereas the United States, in order to achieve the goals of that Act should be able to continue to supply low-enriched uranium fuel to nations that have entered into good faith negotiations as called for in section 404(a) of the Act; and

42 USC 2153c.

Whereas pending such negotiations, limitations now contained in certain agreements for cooperation on the amount of low-enriched uranium which may be supplied thereunder are insufficient to permit adequate assurance of supplies: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

Low-enriched uranium fuel.
U.S. exports.
42 USC 2153c note.

SECTION 1. Limits contained in agreements for cooperation on the amount of low-enriched uranium which may be transferred by or exported from the United States pursuant thereto shall not be construed to preclude transfer or export of amounts of low-enriched uranium in excess of such limits to nations which are parties to the Treaty on the Non-Proliferation of Nuclear Weapons.

42 USC 2153c note.
42 USC 2011 note.
22 USC 3201 note.
"Low-enriched uranium."

SEC. 2. (a) The terms used in this joint resolution shall have the meanings ascribed to them by the Atomic Energy Act of 1954 and by the Nuclear Non-Proliferation Act of 1978.

(b) The term "low-enriched uranium" means uranium enriched to less than 20 per centum in the isotope 235.

Approved June 18, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-919 accompanying H.J. Res. 324 (Comm. on Foreign Affairs).
SENATE REPORT No. 96-657 (Comm. on Foreign Relations).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Apr. 28, considered and passed Senate.
May 5, considered and passed House, amended, in lieu of H.J. Res. 324.
June 6, Senate concurred in House amendment.

Public Law 96-281
96th Congress

Joint Resolution

Congratulating the Order of the Sons of Italy in America for their seventy-fifth anniversary and wishing the Order of the Sons of Italy in America success in future years and proclaiming June 22, 1980, as "National Italian-American Day".

June 19, 1980
[S.J. Res. 183]

Whereas the Order of the Sons of Italy in America is celebrating its seventy-fifth year;
Whereas the Order of the Sons of Italy in America has made substantial contributions to the causes of liberty, equality, and fraternity among Americans of Italian heritage;
Whereas the Order of the Sons of Italy in America has kept alive the rich cultural heritage of Italy and of the Italian people; and
Whereas the Order of the Sons of Italy in America has helped to enrich the diversified culture of the United States through educational, charitable, and benevolent programs: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Senate and House of Representatives congratulate the Order of the Sons of Italy in America for their seventy-fifth anniversary and wish the Order of the Sons of Italy in America success in future years; and that Sunday, June 22, 1980, be proclaimed "National Italian-American Day" in honor of the seventy-fifth anniversary of the Sons of Italy in America.

National Italian-American Day, proclamation.

Approved June 19, 1980.

LEGISLATIVE HISTORY:

CONGRESSIONAL RECORD, Vol. 126 (1980):
June 12, considered and passed Senate.
June 17, considered and passed House.

Public Law 96-282
96th Congress

Joint Resolution

June 27, 1980
[H.J. Res. 521]

Making additional funds available by transfer for the fiscal year ending September 30, 1980, for the Selective Service System.

Selective Service System, additional funds.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sum is transferred, out of funds previously appropriated, for the fiscal year ending September 30, 1980, namely:

SELECTIVE SERVICE SYSTEM

SALARIES AND EXPENSES

(By transfer)

For an additional amount for "Salaries and expenses", $13,285,000, which shall be derived by transfer from unobligated balances available under the heading "Military Personnel, Air Force": *Provided,* That none of the funds made available by this joint resolution shall be available for instituting or taking action to draft any individual for military service.

Approved June 27, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT: No. 96-885 (Comm. on Appropriations).
SENATE REPORT: No. 96-789 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Apr. 22, considered and passed House.
June 3-6, 9-12, considered and passed Senate, amended.
June 25, House concurred in Senate amendment.

Public Law 96-283
96th Congress

An Act

To establish an interim procedure for the orderly development of hard mineral resources in the deep seabed, pending adoption of an international regime relating thereto, and for other purposes.

June 28, 1980
[H.R. 2759]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

Deep Seabed Hard Mineral Resources Act.
30 USC 1401 note.

This Act may be cited as the "Deep Seabed Hard Mineral Resources Act".

SEC. 2. FINDINGS AND PURPOSES.

30 USC 1401.

(a) FINDINGS.—The Congress finds that—

(1) the United States' requirements for hard minerals to satisfy national industrial needs will continue to expand and the demand for such minerals will increasingly exceed the available domestic sources of supply;

(2) in the case of certain hard minerals, the United States is dependent upon foreign sources of supply and the acquisition of such minerals from foreign sources is a significant factor in the national balance-of-payments position;

(3) the present and future national interest of the United States requires the availability of hard mineral resources which is independent of the export policies of foreign nations;

(4) there is an alternate source of supply, which is significant in relation to national needs, of certain hard minerals, including nickel, copper, cobalt, and manganese, contained in the nodules existing in great abundance on the deep seabed;

(5) the nations of the world, including the United States, will benefit if the hard mineral resources of the deep seabed beyond limits of national jurisdiction can be developed and made available for their use;

(6) in particular, future access to the nickel, copper, cobalt, and manganese resources of the deep seabed will be important to the industrial needs of the nations of the world, both developed and developing;

(7) on December 17, 1970, the United States supported (by affirmative vote) the United Nations General Assembly Resolution 2749 (XXV) declaring inter alia the principle that the mineral resources of the deep seabed are the common heritage of mankind, with the expectation that this principle would be legally defined under the terms of a comprehensive international Law of the Sea Treaty yet to be agreed upon;

(8) it is in the national interest of the United States and other nations to encourage a widely acceptable Law of the Sea Treaty, which will provide a new legal order for the oceans covering a broad range of ocean interests, including exploration for and commercial recovery of hard mineral resources of the deep seabed;

(9) the negotiations to conclude such a Treaty and establish the international regime governing the exercise of rights over, and exploration of, the resources of the deep seabed, referred to in General Assembly Resolution 2749 (XXV) are in progress but may not be concluded in the near future;

(10) even if such negotiations are completed promptly, much time will elapse before such an international regime is established and in operation;

(11) development of technology required for the exploration and recovery of hard mineral resources of the deep seabed will require substantial investment for many years before commercial production can occur, and must proceed at this time if deep seabed minerals are to be available when needed;

(12) it is the legal opinion of the United States that exploration for and commercial recovery of hard mineral resources of the deep seabed are freedoms of the high seas subject to a duty of reasonable regard to the interests of other states in their exercise of those and other freedoms recognized by general principles of international law;

(13) pending a Law of the Sea Treaty, and in the absence of agreement among states on applicable principles of international law, the uncertainty among potential investors as to the future legal regime is likely to discourage or prevent the investments necessary to develop deep seabed mining technology;

(14) pending a Law of the Sea Treaty, the protection of the marine environment from damage caused by exploration or recovery of hard mineral resources of the deep seabed depends upon the enactment of suitable interim national legislation;

(15) a Law of the Sea Treaty is likely to establish financial arrangements which obligate the United States or United States citizens to make payments to an international organization with respect to exploration or recovery of the hard mineral resources of the deep seabed; and

(16) legislation is required to establish an interim legal regime under which technology can be developed and the exploration and recovery of the hard mineral resources of the deep seabed can take place until such time as a Law of the Sea Treaty enters into force with respect to the United States.

(b) PURPOSES.—The Congress declares that the purposes of this Act are—

(1) to encourage the successful conclusion of a comprehensive Law of the Sea Treaty, which will give legal definition to the principle that the hard mineral resources of the deep seabed are the common heritage of mankind and which will assure, among other things, nondiscriminatory access to such resources for all nations;

(2) pending the ratification by, and entering into force with respect to, the United States of such a Treaty, to provide for the establishment of an international revenue-sharing fund the proceeds of which shall be used for sharing with the international community pursuant to such Treaty;

(3) to establish, pending the ratification by, and entering into force with respect to, the United States of such a Treaty, an interim program to regulate the exploration for and commercial recovery of hard mineral resources of the deep seabed by United States citizens;

(4) to accelerate the program of environmental assessment of exploration for and commercial recovery of hard mineral

resources of the deep seabed and assure that such exploration and recovery activities are conducted in a manner which will encourage the conservation of such resources, protect the quality of the environment, and promote the safety of life and property at sea; and

(5) to encourage the continued development of technology necessary to recover the hard mineral resources of the deep seabed.

SEC. 3. INTERNATIONAL OBJECTIVES OF THIS ACT.

30 USC 1402.

(a) DISCLAIMER OF EXTRATERRITORIAL SOVEREIGNTY.—By the enactment of this Act, the United States—

(1) exercises its jurisdiction over United States citizens and vessels, and foreign persons and vessels otherwise subject to its jurisdiction, in the exercise of the high seas freedom to engage in exploration for, and commercial recovery of, hard mineral resources of the deep seabed in accordance with generally accepted principles of international law recognized by the United States; but

(2) does not thereby assert sovereignty or sovereign or exclusive rights or jurisdiction over, or the ownership of, any areas or resources in the deep seabed.

(b) SECRETARY OF STATE.—(1) The Secretary of State is encouraged to negotiate successfully a comprehensive Law of the Sea Treaty which, among other things, provides assured and nondiscriminatory access to the hard mineral resources of the deep seabed for all nations, gives legal definition to the principle that the resources of the deep seabed are the common heritage of mankind, and provides for the establishment of requirements for the protection of the quality of the environment as stringent as those promulgated pursuant to this Act.

(2) Until such a Treaty is concluded, the Secretary of State is encouraged to promote any international actions necessary to adequately protect the environment from adverse impacts which may result from any exploration for and commercial recovery of hard mineral resources of the deep seabed carried out by persons not subject to this Act.

SEC. 4. DEFINITIONS.

30 USC 1403.

For purposes of this Act, the term—

(1) "commercial recovery" means—

(A) any activity engaged in at sea to recover any hard mineral resource at a substantial rate for the primary purpose of marketing or commercially using such resource to earn a net profit, whether or not such net profit is actually earned;

(B) if such recovered hard mineral resource will be processed at sea, such processing; and

(C) if the waste of such activity to recover any hard mineral resource, or of such processing at sea, will be disposed of at sea, such disposal;

(2) "Continental Shelf" means—

(A) the seabed and subsoil of the submarine areas adjacent to the coast, but outside the area of the territorial sea, to a depth of 200 meters or, beyond that limit, to where the depth of the superjacent waters admits of the exploitation of the natural resources of such submarine area; and

(B) the seabed and subsoil of similar submarine areas adjacent to the coast of islands;

(3) "controlling interest", for purposes of paragraph 14(C) of this section, means a direct or indirect legal or beneficial interest in or influence over another person arising through ownership of capital stock, interlocking directorates or officers, contractual relations, or other similar means, which substantially affect the independent business behavior of such person;

(4) "deep seabed" means the seabed, and the subsoil thereof to a depth of ten meters, lying seaward of and outside—

(A) the Continental Shelf of any nation; and

(B) any area of national resource jurisdiction of any foreign nation, if such area extends beyond the Continental Shelf of such nation and such jurisdiction is recognized by the United States;

(5) "exploration" means—

(A) any at-sea observation and evaluation activity which has, as its objective, the establishment and documentation of—

(i) the nature, shape, concentration, location, and tenor of a hard mineral resource; and

(ii) the environmental, technical, and other appropriate factors which must be taken into account to achieve commercial recovery; and

(B) the taking from the deep seabed of such quantities of any hard mineral resource as are necessary for the design, fabrication, and testing of equipment which is intended to be used in the commercial recovery and processing of such resource;

(6) "hard mineral resource" means any deposit or accretion on, or just below, the surface of the deep seabed of nodules which include one or more minerals, at least one of which contains manganese, nickel, cobalt, or copper;

(7) "international agreement" means a comprehensive agreement concluded through negotiations at the Third United Nations Conference on the Law of the Sea, relating to (among other matters) the exploration for and commercial recovery of hard mineral resources and the establishment of an international regime for the regulation thereof;

(8) "licensee" means the holder of a license issued under title I of this Act to engage in exploration;

(9) "permittee" means the holder of a permit issued under title I of this Act to engage in commercial recovery;

(10) "person" means any United States citizen, any individual, and any corporation, partnership, joint venture, association, or other entity organized or existing under the laws of any nation;

(11) "reciprocating state" means any foreign nation designated as such by the Administrator under section 118;

(12) "Administrator" means the Administrator of the National Oceanic and Atmospheric Administration;

(13) "United States" means the several States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the United States Virgin Islands, Guam, and any other Commonwealth, territory, or possession of the United States; and

(14) "United States citizen" means—

(A) any individual who is a citizen of the United States;

(B) any corporation, partnership, joint venture, association, or other entity organized or existing under the laws of any of the United States; and

(C) any corporation, partnership, joint venture, association, or other entity (whether organized or existing under the laws of any of the United States or a foreign nation) if the controlling interest in such entity is held by an individual or entity described in subparagraph (A) or (B).

TITLE I—REGULATION OF EXPLORATION AND COMMERCIAL RECOVERY BY UNITED STATES CITIZENS

SEC. 101. PROHIBITED ACTIVITIES BY UNITED STATES CITIZENS.

30 USC 1411.

(a) PROHIBITED ACTIVITIES AND EXCEPTIONS.—(1) No United States citizen may engage in any exploration or commercial recovery unless authorized to do so under—

(A) a license or a permit issued under this title;

(B) a license, permit, or equivalent authorization issued by a reciprocating state; or

(C) an international agreement which is in force with respect to the United States.

(2) The prohibitions of this subsection shall not apply to any of the following activities:

(A) Scientific research, including that concerning hard mineral resources.

(B) Mapping, or the taking of any geophysical, geochemical, oceanographic, or atmospheric measurements or random bottom samplings of the deep seabed, if such taking does not significantly alter the surface or subsurface of the deep seabed or significantly affect the environment.

(C) The design, construction, or testing of equipment and facilities which will or may be used for exploration or commercial recovery, if such design, construction, or testing is conducted on shore, or does not involve the recovery of any but incidental hard mineral resources.

(D) The furnishing of machinery, products, supplies, services, or materials for any exploration or commercial recovery conducted under a license or permit issued under this title, a license or permit or equivalent authorization issued by a reciprocating state, or under an international agreement.

(E) Activities, other than exploration or commercial recovery activities, of the Federal Government.

(b) EXISTING EXPLORATION.—(1) Subsection (a)(1)(A) shall not be deemed to prohibit any United States citizen who is engaged in exploration before the effective date of this Act from continuing to engage in such exploration—

(A) if such citizen applies for a license under section 103(a) with respect to such exploration within such reasonable period of time, after the date on which initial regulations to implement section 103(a) are issued, as the Administrator shall prescribe; and

(B) until such license is issued to such citizen or a final administrative or judicial determination is made affirming the denial of certification of the application for, or issuance of, such license.

(2) Notwithstanding paragraph (1), if the President by Executive order determines that immediate suspension of exploration activities

Suspension of exploration.

is necessary for the reasons set forth in section 106(a)(2)(B) or the Administrator determines that immediate suspension of activities is necessary to prevent a significant adverse effect on the environment or to preserve the safety of life and property at sea, the Administrator is authorized, notwithstanding any other requirement of this Act, to issue an emergency order requiring any United States citizen who is engaged in exploration before the effective date of this Act to immediately suspend exploration activities. The issuance of such emergency order is subject to judicial review as provided in chapter 7 of title 5, United States Code.

Judicial review.

5 USC 701 *et seq.*

(3) The timely filing of any application for a license under paragraph (1)(A) shall entitle the applicant to priority of right for the issuance of such license under section 103(b). In any case in which more than one application referred to in paragraph (1) is filed based on exploration plans required by section 103(a)(2) which refer to all or part of the same deep seabed area, the Administrator shall, in taking action on such applications, apply principles of equity which take into consideration, among other things, the date on which the applicants or predecessors in interest, or component organizations thereof, commenced exploration activities and the continuity and extent of such exploration and amount of funds expended with respect to such exploration.

(c) INTERFERENCE.—No United States citizen may interfere or participate in interference with any activity conducted by any licensee or permittee which is authorized to be undertaken under a license or permit issued by the United States to the licensee or permittee under this Act or with any activity conducted by the holder of, and authorized to be undertaken under, a license or permit or equivalent authorization issued by a reciprocating state for the exploration or commercial recovery of hard mineral resources. United States citizens shall exercise their rights on the high seas with reasonable regard for the interests of other states in their exercise of the freedoms of the high seas.

30 USC 1412.

SEC. 102. LICENSES FOR EXPLORATION AND PERMITS FOR COMMERCIAL RECOVERY.

(a) AUTHORITY TO ISSUE.—Subject to the provisions of this Act, the Administrator shall issue to applicants who are eligible therefor licenses for exploration and permits for commercial recovery.

(b) NATURE OF LICENSES AND PERMITS.—(1) A license or permit issued under this title shall authorize the holder thereof to engage in exploration or commercial recovery, as the case may be, consistent with the provisions of this Act, the regulations issued by the Administrator to implement the provisions of this Act, and the specific terms, conditions, and restrictions applied to the license or permit by the Administrator.

(2) Any license or permit issued under this title shall be exclusive with respect to the holder thereof as against any other United States citizen or any citizen, national or governmental agency of, or any legal entity organized or existing under the laws of, any reciprocating state.

(3) A valid existing license shall entitle the holder, if otherwise eligible under the provisions of this Act and regulations issued under this Act, to a permit for commercial recovery. Such a permit recognizes the right of the holder to recover hard mineral resources, and to own, transport, use, and sell hard mineral resources recovered, under the permit and in accordance with the requirements of this Act.

(4) In the event of interference with the exploration or commercial recovery activities of a licensee or permittee by nationals of other states, the Secretary of State shall use all peaceful means to resolve the controversy by negotiation, conciliation, arbitration, or resort to agreed tribunals.

(c) RESTRICTIONS.—(1) The Administrator may not issue—

(A) any license or permit after the date on which an international agreement is ratified by and enters into force with respect to the United States, except to the extent that issuance of such license or permit is not inconsistent with such agreement;

(B) any license or permit the exploration plan or recovery plan of which, submitted pursuant to section 103(a)(2), would apply to an area to which applies, or would conflict with, (i) any exploration plan or recovery plan submitted with any pending application to which priority of right for issuance applies under section 103(b), (ii) any exploration plan or recovery plan associated with any existing license or permit, or (iii) any equivalent authorization which has been issued, or for which formal notice of application has been submitted, by a reciprocating state prior to the filing date of any relevant application for licenses or permits pursuant to this title;

(C) a permit authorizing commercial recovery within any area of the deep seabed in which exploration is authorized under a valid existing license if such permit is issued to other than the licensee for such area;

(D) any exploration license before July 1, 1981, or any permit which authorizes commercial recovery to commence before January 1, 1988;

(E) any license or permit the exploration plan or recovery plan for which applies to any area of the deep seabed if, within the 3-year period before the date of application for such license or permit, (i) the applicant therefor surrendered or relinquished such area under an exploration plan or recovery plan associated with a previous license or permit issued to such applicant, or (ii) a license or permit previously issued to the applicant had an exploration plan or recovery plan which applied to such area and such license or permit was revoked under section 106; or

(F) a license or permit, or approve the transfer of a license or permit, except to a United States citizen.

(2) No permittee may use any vessel for the commercial recovery of hard mineral resources or for the processing at sea of hard mineral resources recovered under the permit issued to the permittee unless the vessel is documented under the laws of the United States. Vessel documentation.

(3) Each permittee shall use at least one vessel documented under the laws of the United States for the transportation from each mining site of hard mineral resources recovered under the permit issued to the permittee. Transportation of minerals from mining sites.

(4) For purposes of the shipping laws of the United States, any vessel documented under the laws of the United States and used in the commercial recovery, processing, or transportation from any mining site of hard mineral resources recovered under a permit issued under this title shall be deemed to be used in, and used in an essential service in, the foreign commerce or foreign trade of the United States, as defined in section 905(a) of the Merchant Marine Act, 1936, and shall be deemed to be a vessel as defined in section 1101(b) of that Act. 46 USC 1244. 46 USC 1271.

(5) Except as otherwise provided in this paragraph, the processing on land of hard mineral resources recovered pursuant to a permit Processing on land within U.S.

shall be conducted within the United States: *Provided,* That the President does not determine that such restrictions contravene the overriding national interests of the United States. The Administrator may allow the processing of hard mineral resources at a place other than within the United States if he finds, after opportunity for an agency hearing, that—

Processing outside U.S.

(A) the processing of the quantity concerned of such resource at a place other than within the United States is necessary for the economic viability of the commerical recovery activities of a permittee; and

(B) satisfactory assurances have been given by the permittee that such resource, after processing, to the extent of the permittee's ownership therein, will be returned to the United States for domestic use, if the Administrator so requires after determining that the national interest necessitates such return.

30 USC 1413.

SEC. 103. LICENSE AND PERMIT APPLICATIONS, REVIEW, AND CERTIFICATION.

(a) APPLICATIONS.—(1) Any United States citizen may apply to the Administrator for the issuance or transfer of a license for exploration or a permit for commercial recovery.

(2)(A) Applications for issuance or transfer of licenses for exploration and permits for commercial recovery shall be made in such form and manner as the Administrator shall prescribe in general and uniform regulations and shall contain such relevant financial, technical, and environmental information as the Administrator may by regulations require as being necessary and appropriate for carrying out the provisions of this title. In accordance with such regulations, each applicant for the issuance of a license shall submit an exploration plan as described in subparagraph (B), and each applicant for a permit shall submit a recovery plan as described in subparagraph (C).

Exploration plan.

(B) The exploration plan for a license shall set forth the activities proposed to be carried out during the period of the license, describe the area to be explored, and include the intended exploration schedule and methods to be used, the development and testing of systems for commercial recovery to take place under the terms of the license, an estimated schedule of expenditures, measures to protect the environment and to monitor the effectiveness of environmental safeguards and monitoring systems for commercial recovery, and such other information as is necessary and appropriate to carry out the provisions of this title. The area set forth in an exploration plan shall be of sufficient size to allow for intensive exploration.

Recovery plan.

(C) The recovery plan for a permit shall set forth the activities proposed to be carried out during the period of the permit, and shall include the intended schedule of commercial recovery, environmental safeguards and monitoring systems, details of the area or areas proposed for commercial recovery, a resource assessment thereof, the methods and technology to be used for commercial recovery and processing, the methods to be used for disposal of wastes from recovery and processing, and such other information as is necessary and appropriate to carry out the provisions of this title.

Size and location selection.

(D) The applicant shall select the size and location of the area of the exploration plan or recovery plan, which area shall be approved unless the Administrator finds that—

(i) the area is not a logical mining unit; or

(ii) commercial recovery activities in the proposed location would result in a significant adverse impact on the quality of the

environment which cannot be avoided by the imposition of reasonable restrictions.

(E) For purposes of subparagraph (D), "logical mining unit" means— "Logical mining unit."

(i) in the case of a license for exploration, an area of the deep seabed which can be explored under the license in an efficient, economical, and orderly manner with due regard for conservation and protection of the environment, taking into consideration the resource data, other relevant physical and environmental characteristics, and the state of the technology of the applicant as set forth in the exploration plan; or

(ii) in the case of a permit, an area of the deep seabed—

(I) in which hard mineral resources can be recovered in sufficient quantities to satisfy the permittee's estimated production requirements over the initial 20-year term of the permit in an efficient, economical, and orderly manner with due regard for conservation and protection of the environment, taking into consideration the resource data, other relevant physical and environmental characteristics, and the state of the technology of the applicant set out in the recovery plan;

(II) which is not larger than is necessary to satisfy the permittee's estimated production requirements over the initial 20-year term of the permit; and

(III) in relation to which the permittee's estimated production requirements are not found by the Administrator to be unreasonable.

(b) PRIORITY OF RIGHT FOR ISSUANCE.—Subject to section 101(b), priority of right for the issuance of licenses to applicants shall be established on the basis of the chronological order in which license applications which are in substantial compliance with the requirements established under subsection (a)(2) of this section are filed with the Administrator. Priority of right shall not be lost in the case of any application filed which is in substantial but not full compliance with such requirements if the applicant thereafter brings the application into conformity with such requirements within such reasonable period of time as the Administrator shall prescribe in regulations.

(c) ELIGIBILITY FOR CERTIFICATION.—Before the Administrator may certify any application for issuance or transfer of a license for exploration or permit for commercial recovery, the Administrator must find in writing, after consultation with other departments and agencies pursuant to subsection (e) of this section, that—

(1) the applicant has demonstrated that, upon issuance or transfer of the license or permit, the applicant will be financially responsible to meet all obligations which may be required of a licensee or permittee to engage in the exploration or commercial recovery proposed in the application;

(2) the applicant has demonstrated that, upon issuance or transfer of the license or permit, the applicant will have the technological capability to engage in such exploration or commercial recovery;

(3) the applicant has satisfactorily fulfilled all obligations under any license or permit previously issued or transferred to the applicant under this Act; and

(4) the proposed exploration plan or recovery plan of the applicant meets the requirements of this Act and the regulations issued under this Act.

Applications, transmittal to Attorney General and FTC.

(d) ANTITRUST REVIEW.—(1) Whenever the Administrator receives any application for issuance or transfer of a license for exploration or permit for commercial recovery, the Administrator shall transmit promptly a complete copy of such application to the Attorney General of the United States and the Federal Trade Commission.

(2) The Attorney General and the Federal Trade Commission shall conduct such antitrust review of the application as they deem appropriate and shall, if they deem appropriate, advise the Administrator of the likely effects of such issuance or transfer on competition.

Recommendations.

(3) The Attorney General and the Federal Trade Commission may make any recommendations they deem advisable to avoid any action upon such application by the Administrator which would create or maintain a situation inconsistent with the antitrust laws. Such recommendations may include, without limitation, the denial of issuance or transfer of the license or permit or issuance or transfer upon such terms and conditions as may be appropriate.

(4) Any advice or recommendation submitted by the Attorney General or the Federal Trade Commission pursuant to this subsection shall be submitted within 90 days after receipt by them of the application. The Administrator shall not issue or transfer the license or permit during that 90-day period, except upon written confirmation by the Attorney General and the Federal Trade Commission that neither intends to submit any further advice or recommendation with respect to the application.

Attorney General and FTC, notification.

(5) If the Administrator decides to issue or transfer the license or permit with respect to which denial of the issuance or transfer of the license or permit has been recommended by the Attorney General or the Federal Trade Commission, or to issue or transfer the license or permit without imposing those terms and conditions recommended by the Attorney General or the Federal Trade Commission as appropriate to prevent any situation inconsistent with the antitrust laws, the Administrator shall, prior to or upon issuance or transfer of the license or permit, notify the Attorney General and the Federal Trade Commission of the reasons for such decision.

Violation.

(6) The issuance or transfer of a license or permit under this title shall not be admissible in any way as a defense to any civil or criminal action for violation of the antitrust laws of the United States, nor shall it in any way modify or abridge any private right of action under such laws.

"Antitrust laws."

(7) As used in this subsection, the term "antitrust laws" means the Act of July 2, 1890 (commonly known as the Sherman Act; 15 U.S.C. 1-7); sections 73 through 77 of the Act of August 27, 1894 (commonly known as the Wilson Tariff Act; 15 U.S.C. 8-11); the Clayton Act (15 U.S.C. 12 et seq.); the Act of June 19, 1936 (commonly known as the Robinson-Patman Price Discrimination Act; 15 U.S.C. 13-13b and 21a); and the Federal Trade Commission Act (15 U.S.C. 41 et seq.).

(e) OTHER FEDERAL AGENCIES.—The Administrator shall provide by regulation for full consultation and cooperation, prior to certification of an application for the issuance or transfer of any license for exploration or permit for commercial recovery and prior to the issuance or transfer of such a license or permit, with other Federal agencies or departments which have programs or activities within their statutory responsibilities which would be affected by the activities proposed in the application for the issuance or transfer of a license or permit. Not later than 30 days after the date of enactment of this Act, the heads of any Federal departments or agencies having expertise concerning, or jurisdiction over, any aspect of the recovery or processing of hard mineral resources shall transmit to the Admin-

Written comments, transmittal to Administrator.

istrator written comments as to their expertise or statutory responsibilities pursuant to this Act or any other Federal law. To the extent possible, such agencies shall cooperate to reduce the number of separate actions required to satisfy the statutory responsibilities of these agencies. The Administrator shall transmit to each such agency or department a complete copy of each application and each such agency or department, based on its legal responsibilities and authorities, may, not later than 60 days after receipt of the application, recommend certification of the application, issuance or transfer of the license or permit, or denial of such certification, issuance, or transfer. In any case in which an agency or department recommends such a denial, it shall set forth in detail the manner in which the application does not comply with any law or regulation within its area of responsibility and shall indicate how the application may be amended, or how terms, conditions, or restrictions might be added to the license or permit, to assure compliance with such law or regulation.

Transmittal of applications; recommendations.

(f) REVIEW PERIOD.—All time periods for the review of an application for issuance or transfer of a license or permit established pursuant to this section shall, to the maximum extent practicable, run concurrently from the date on which the application is received by the Administrator.

(g) APPLICATION CERTIFICATION.—Upon making the applicable determinations and findings required in sections 101, 102, and this section with respect to any applicant for the issuance or transfer of a license or a permit and the exploration or commercial recovery proposed by such applicant, after completion of procedures for receiving the application required by this Act, and upon payment by the applicant of the fee required under section 104, the Administrator shall certify the application for the issuance or transfer of the license or permit. The Administrator, to the maximum extent possible, shall endeavor to complete certification action on the application within 100 days after its submission. If final certification or denial of certification has not occurred within 100 days after submission of the application, the Administrator shall inform the applicant in writing of the then pending unresolved issues, the Administrator's efforts to resolve them, and an estimate of the time required to do so.

SEC. 104. LICENSE AND PERMIT FEES.

30 USC 1414.

No application for the issuance or transfer of a license for exploration or permit for commercial recovery shall be certified unless the applicant pays to the Administrator a reasonable administrative fee which shall be deposited into miscellaneous receipts of the Treasury. The amount of the administrative fee imposed by the Administrator on any applicant shall reflect the reasonable administrative costs incurred in reviewing and processing the application.

SEC. 105. LICENSE AND PERMIT TERMS, CONDITIONS, AND RESTRICTIONS; ISSUANCE AND TRANSFER OF LICENSES AND PERMITS.

30 USC 1415.

(a) ELIGIBILITY FOR ISSUANCE OR TRANSFER OF LICENSE OR PERMIT.—Before issuing or transferring a license for exploration or permit for commercial recovery, the Administrator must find in writing, after consultation with interested departments and agencies pursuant to section 103(e), and upon considering public comments received with respect to the license or permit, that the exploration or commercial recovery proposed in the application—

Public comments.

(1) will not unreasonably interfere with the exercise of the freedoms of the high seas by other states, as recognized under general principles of international law;

(2) will not conflict with any international obligation of the United States established by any treaty or international convention in force with respect to the United States;

(3) will not create a situation which may reasonably be expected to lead to a breach of international peace and security involving armed conflict;

(4) cannot reasonably be expected to result in a significant adverse effect on the quality of the environment, taking into account the analyses and information in any applicable environmental impact statement prepared pursuant to section 109(c) or 109(d); and

(5) will not pose an inordinate threat to the safety of life and property at sea.

(b) ISSUANCE AND TRANSFER OF LICENSES AND PERMITS WITH TERMS, CONDITIONS, AND RESTRICTIONS.—(1) Within 180 days after certification of any application for the issuance or transfer of a license or permit under section 103(g), the Administrator shall propose terms and conditions for, and restrictions on, the exploration or commercial recovery proposed in the application which are consistent with the provisions of this Act and regulations issued under this Act. If additional time is needed, the Administrator shall notify the applicant in writing of the reasons for the delay and indicate the approximate date on which the proposed terms, conditions, and restrictions will be completed. The Administrator shall provide to each applicant a written statement of the proposed terms, conditions, and restrictions. Such terms, conditions, and restrictions shall be generally specified in regulations with general criteria and standards to be used in establishing such terms, conditions, and restrictions for a license or permit and shall be uniform in all licenses or permits, except to the extent that differing physical and environmental conditions require the establishment of special terms, conditions, and restrictions for the conservation of natural resources, protection of the environment, or the safety of life and property at sea.

Written statements.

(2) After preparation and consideration of the final environmental impact statement pursuant to section 109(d) on the proposed issuance of a license or permit and subject to the other provisions of this Act, the Administrator shall issue to the applicant the license or permit with the terms, conditions, and restrictions incorporated therein.

Final environmental impact statements.

(3) The licensee or permittee to whom a license or permit is issued or transferred shall be deemed to have accepted the terms, conditions, and restrictions in the license or permit if the licensee or permittee does not notify the Administrator within 60 days after receipt of the license or permit of each term, condition, or restriction with which the licensee or permittee takes exception. The licensee or permittee may, in addition to such objections as may be raised under applicable provisions of law, object to any term, condition, or restriction on the ground that the term, condition, or restriction is inconsistent with this Act or the regulations promulgated thereunder. If, after the Administrator takes final action on these objections, the licensee or permittee demonstrates that a dispute remains on a material issue of fact, the licensee or permittee is entitled to a decision on the record after the opportunity for an agency hearing pursuant to sections 556 and 557 of title 5, United States Code. Any such decision made by the Administrator shall be subject to judicial review as provided in chapter 7 of title 5, United States Code.

Objection to terms, notification to Administrator.

Hearing.

Judicial review.

5 USC 701 *et seq.*

(c) MODIFICATION AND REVISION OF TERMS, CONDITIONS, AND RESTRICTIONS.—(1) After the issuance or transfer of any license or permit under subsection (b), the Administrator, after consultation with interested agencies and the licensee or permittee, may modify any term, condition, or restriction in such license or permit—

(A) to avoid unreasonable interference with the interests of other states in their exercise of the freedoms of the high seas, as recognized under general principles of international law;

(B) if relevant data and other information (including, but not limited to, data resulting from exploration or commercial recovery activities under the license or permit) indicate that modification is required to protect the quality of the environment or to promote the safety of life and property at sea and if such modification is consistent with the regulations issued to carry out section 109(b);

(C) to avoid a conflict with any international obligation of the United States, established by any treaty or convention in force with respect to the United States, as determined in writing by the President; or

(D) to avoid any situation which may reasonably be expected to lead to a breach of international peace and security involving armed conflict, as determined in writing by the President.

(2) During the term of a license or a permit, the licensee or permittee may submit to the Administrator an application for a revision of the license or permit or the exploration plan or recovery plan associated with the license or permit. The Administrator shall approve such application upon a finding in writing that the revision will comply with the requirements of this Act and the regulations issued under this Act. License or permit revision, application.

(3) The Administrator shall establish, by regulation, guidelines for a determination of the scale or extent of a proposed modification or revision for which any or all license or permit application requirements and procedures, including a public hearing, shall apply. Any increase in the size of the area, or any change in the location of an area, to which an exploration plan or a recovery plan applies, except an incidental increase or change, must be made by application for another license or permit. Modification or revision determination.

(4) The procedures set forth in subsection (b)(3) of this section shall apply with respect to any modification under this subsection in the same manner, and to the same extent, as if such modification were an initial term, condition, or restriction proposed by the Administrator.

(d) PRIOR CONSULTATIONS.—Prior to making a determination to issue, transfer, modify, or renew a license or permit under this section, the Administrator shall consult with any affected Regional Fishery Management Council established pursuant to section 302 of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1852), if the activities undertaken pursuant to such license or permit could adversely affect any fishery within the Fishery Conservation Zone, or any anadromous species or Continental Shelf fishery resource subject to the exclusive management authority of the United States beyond such zone. Regional Fishery Management Councils.

SEC. 106. DENIAL OF CERTIFICATION OF APPLICATIONS AND OF ISSUANCE, TRANSFER, SUSPENSION, AND REVOCATION OF LICENSES AND PERMITS; SUSPENSION AND MODIFICATION OF ACTIVITIES. 30 USC 1416.

(a) DENIAL, SUSPENSION, MODIFICATION, AND REVOCATION.—(1) The Administrator may deny certification of an application for the

issuance or transfer of, and may deny the issuance or transfer of, a license for exploration or permit for commercial recovery if the Administrator finds that the applicant, or the activities proposed to be undertaken by the applicant, do not meet the requirements set forth in section 103(c), section 105(a), or in any other provision of this Act, or any regulation issued under this Act, for the issuance or transfer of a license or permit.

(2) The Administrator may—

(A) in addition to, or in lieu of, the imposition of any civil penalty under section 302(a), or in addition to the imposition of any fine under section 303, suspend or revoke any license or permit issued under this Act, or suspend or modify any particular activities under such a license or permit, if the licensee or permittee, as the case may be, substantially fails to comply with any provision of this Act, any regulation issued under this Act, or any term, condition, or restriction of the license or permit; and

(B) suspend or modify particular activities under any license or permit, if the President determines that such suspension or modification is necessary (i) to avoid any conflict with any international obligation of the United States established by any treaty or convention in force with respect to the United States, or (ii) to avoid any situation which may reasonably be expected to lead to a breach of international peace and security involving armed conflict.

(3) No action may be taken by the Administrator to deny issuance or transfer of or to revoke any license or permit or, except as provided in subsection (c), to suspend any license or permit or suspend or modify particular activities under a license or permit, unless the Administrator—

Publication in Federal Register

(A) publishes in the Federal Register and gives the applicant, licensee, or permittee, as the case may be, written notice of the intention of the Administrator to deny the issuance or transfer of or to suspend, modify, or revoke the license or permit and the reason therefor; and

Correction of deficiency

(B) if the reason for the proposed denial, suspension, modification, or revocation is a deficiency which the applicant, licensee, or permittee can correct, affords the applicant, licensee, or permittee a reasonable time, but not more than 180 days from the date of the notice or such longer period as the Administrator may establish for good cause shown, to correct such deficiency.

(4) The Administrator shall deny issuance or transfer of, or suspend or revoke, any license or permit or order the suspension or modification of particular activities under a license or permit—

(A) on the thirtieth day after the date of the notice given to the applicant, licensee, or permittee under paragraph (3)(A) unless before such day the applicant, licensee, or permittee requests a review of the proposed denial, suspension, modification, or revocation; or

(B) on the last day of the period established under paragraph (3)(B) in which the applicant, licensee, or permittee must correct a deficiency, if such correction has not been made before such day.

Hearing

(b) ADMINISTRATIVE REVIEW OF PROPOSED DENIAL, SUSPENSION, MODIFICATION, OR REVOCATION.—Any applicant, licensee, or permittee, as the case may be, who makes a timely request under subsection (a) for review of a denial of issuance or transfer, or a suspension or revocation, of a license for exploration or permit for commercial recovery, or a suspension or modification of particular activities

under such a license or permit, is entitled to an adjudication on the record after an opportunity for an agency hearing with respect to such denial or suspension, revocation, or modification.

(c) EFFECT ON ACTIVITIES; EMERGENCY ORDERS.—The issuance of any notice of proposed suspension or revocation of a license for exploration or permit for commercial recovery or proposed suspension or modification of particular activities under such a license or permit shall not affect the continuation of exploration or commercial recovery activities by the licensee or permittee. The provisions of paragraphs (3) and (4) of subsection (a) and the first sentence of this subsection shall not apply when the President determines by Executive order that an immediate suspension of a license for exploration or permit for commercial recovery, or immediate suspension or modification of particular activities under such a license or permit, is necessary for the reasons set forth in subsection (a)(2)(B), or the Administrator determines that an immediate suspension of such a license or permit, or immediate suspension or modification of particular activities under such a license or permit, is necessary to prevent a significant adverse effect on the environment or to preserve the safety of life and property at sea, and the Administrator issues an emergency order requiring such immediate suspension.

(d) JUDICIAL REVIEW.—Any determination of the Administrator, after any appropriate administrative review under subsection (b), to certify or deny certification of an application for the issuance or transfer of, or to issue, deny issuance of, transfer, deny the transfer of, modify, renew, suspend, or revoke any license for exploration or permit for commercial recovery, or suspend or modify particular activities under such a license or permit, or any immediate suspension of such a license or permit, or immediate suspension or modification of particular activities under such a license or permit, pursuant to subsection (c), is subject to judicial review as provided in chapter 7 of title 5, United States Code.

5 USC 701 *et seq*

SEC. 107. DURATION OF LICENSES AND PERMITS.

30 USC 1417

(a) DURATION OF A LICENSE.—Each license for exploration shall be issued for a period of 10 years. If the licensee has substantially complied with the license and the exploration plan associated therewith and has requested extensions of the license, the Administrator shall extend the license on terms, conditions, and restrictions consistent with this Act and the regulations issued under this Act for periods of not more than 5 years each.

Extensions.

(b) DURATION OF A PERMIT.—Each permit for commercial recovery shall be issued for a term of 20 years and for so long thereafter as hard mineral resources are recovered annually in commercial quantities from the area to which the recovery plan associated with the permit applies. The permit of any permittee who is not recovering hard mineral resources in commercial quantities at the end of 10 years shall be terminated; except that the Administrator shall for good cause shown, including force majeure, adverse economic conditions, unavoidable delays in construction, major unanticipated vessel repairs that prevent the permittee from conducting commercial recovery activities during an annual period, or other circumstances beyond the control of the permittee, extend the 10-year period, but not beyond the initial 20-year term of the permit.

Termination and extensions.

SEC. 108. DILIGENCE REQUIREMENTS.

30 USC 1418.

(a) IN GENERAL.—The exploration plan or recovery plan and the terms, conditions, and restrictions of each license and permit issued

under this title shall be designed to assure diligent development. Each licensee shall pursue diligently the activities described in the exploration plan of the licensee, and each permittee shall pursue diligently the activities described in the recovery plan of the permittee.

(b) EXPENDITURES.—Each license shall require such periodic reasonable expenditures for exploration by the licensee as the Administrator shall establish, taking into account the size of the area of the deep seabed to which the exploration plan associated with the license applies and the amount of funds which is estimated by the Administrator to be required for commercial recovery of hard mineral resources to begin within the time limit established by the Administrator. Such required expenditures shall not be established at a level which would discourage exploration by persons with less costly technology than is prevalently in use.

Less costly technology.

Temporary suspension.

(c) COMMERCIAL RECOVERY.—Once commercial recovery is achieved, the Administrator shall, within reasonable limits and taking into consideration all relevant factors, require the permittee to maintain commercial recovery throughout the period of the permit; except that the Administrator shall for good cause shown, including force majeure, adverse economic conditions, or other circumstances beyond the control of the permittee, authorize the temporary suspension of commercial recovery activities. The duration of such a suspension shall not exceed one year at any one time, unless the Administrator determines that conditions justify an extension of the suspension.

30 USC 1419.

SEC. 109. PROTECTION OF THE ENVIRONMENT.

(a) ENVIRONMENTAL ASSESSMENT—(1) DEEP OCEAN MINING ENVIRONMENTAL STUDY (DOMES).—The Administrator shall expand and accelerate the program assessing the effects on the environment from exploration and commercial recovery activities, including seabased processing and the disposal at sea of processing wastes, so as to provide an assessment, as accurate as practicable, of environmental impacts of such activities for the implementation of subsections (b), (c), and (d).

(2) SUPPORTING OCEAN RESEARCH.—The Administrator also shall conduct a continuing program of ocean research to support environmental assessment activity through the period of exploration and commercial recovery authorized by this Act. The program shall include the development, acceleration, and expansion, as appropriate, of studies of the ecological, geological, and physical aspects of the deep seabed in general areas of the ocean where exploration and commercial development under the authority of this Act are likely to occur, including, but not limited to—

(A) natural diversity of the deep seabed biota;

(B) life histories of major benthic, midwater, and surface organisms most likely to be affected by commercial recovery activities;

(C) long- and short-term effects of commercial recovery on the deep seabed biota; and

(D) assessment of the effects of seabased processing activities.

Plan, submittal to Congress.

Within 160 days after the date of enactment of this Act, the Administrator shall prepare a plan to carry out the program described in this subsection, including necessary funding levels for the next five fiscal years, and shall submit the plan to the Congress.

(b) TERMS, CONDITIONS, AND RESTRICTIONS.—Each license and permit issued under this title shall contain such terms, conditions,

and restrictions, established by the Administrator, which prescribe the actions the licensee or permittee shall take in the conduct of exploration and commercial recovery activities to assure protection of the environment. The Administrator shall require in all activities under new permits, and wherever practicable in activities under existing permits, the use of the best available technologies for the protection of safety, health, and the environment wherever such activities would have a significant effect on safety, health, or the environment, except where the Administrator determines that the incremental benefits are clearly insufficient to justify the incremental costs of using such technologies. Before establishing such terms, conditions, and restrictions, the Administrator shall consult with the Administrator of the Environmental Protection Agency, the Secretary of State, and the Secretary of the department in which the Coast Guard is operating, concerning such terms, conditions, and restrictions, and the Administrator shall take into account and give due consideration to the information contained in each final environmental impact statement prepared with respect to such license or permit pursuant to subsection (d).

Best available technologies.

Consultation.

(c) PROGRAMMATIC ENVIRONMENTAL IMPACT STATEMENT.—(1) If the Administrator, in consultation with the Administrator of the Environmental Protection Agency and with the assistance of other appropriate Federal agencies, determines that a programmatic environmental impact statement is required, the Administrator shall, as soon as practicable after the enactment of this Act, with respect to the areas of the oceans in which any United States citizen is expected to undertake exploration and commercial recovery under the authority of this Act—

(A) prepare and publish draft programmatic environmental impact statements which assess the environmental impacts of exploration and commercial recovery in such areas;

(B) afford all interested parties a reasonable time after such dates of publication to submit comments to the Administrator on such draft statements; and

Comments.

(C) thereafter prepare (giving full consideration to all comments submitted under subparagraph (B)) and publish final programmatic environmental impact statements regarding such areas.

(2) With respect to the area of the oceans in which exploration and commercial recovery by any United States citizen will likely first occur under the authority of this Act, the Administrator shall prepare a draft and final programmatic environmental impact statement as required under paragraph (1), except that—

(A) the draft programmatic environmental impact statement shall be prepared and published as soon as practicable but not later than 270 days (or such longer period as the Administrator may establish for good cause shown) after the date of enactment of this Act; and

(B) the final programmatic environmental impact statement shall be prepared and published within 180 days (or such longer period as the Administrator may establish for good cause shown) after the date on which the draft statement is published.

(d) ENVIRONMENTAL IMPACT STATEMENTS ON ISSUANCE OF LICENSES AND PERMITS.—The issuance of, but not the certification of an application for, any license or permit under this title shall be deemed to be a major Federal action significantly affecting the quality of the human environment for purposes of section 102 of the National Environmental Policy Act of 1969. In preparing an environmental

42 USC 4332.
Consultation.

impact statement pursuant to this subsection, the Administrator shall consult with the agency heads referred to in subsection (b) and shall take into account, and give due consideration to, the relevant information contained in any applicable studies and any other environmental impact statement prepared pursuant to this section.

Publication. Each draft environmental impact statement prepared pursuant to this subsection shall be published, with the terms, conditions, and restrictions proposed pursuant to section 105(b), within 180 days (or such longer period as the Administrator may establish for good cause shown in writing) following the date on which the application for the

Publication. license or permit concerned is certified by the Administrator. Each final environmental impact statement shall be published 180 days (or such longer period as the Administrator may establish for good cause shown in writing) following the date on which the draft environmental impact statement is published.

A vessel or other floating craft. (e) EFFECT ON OTHER LAW.—For the purposes of this Act, any vessel or other floating craft engaged in commercial recovery or exploration shall not be deemed to be "a vessel or other floating craft" under

33 USC 1362. section 502(12)(B) of the Clean Water Act and any discharge of a pollutant from such vessel or other floating craft shall be subject to the Clean Water Act.

(f) STABLE REFERENCE AREAS.—

International negotiations. (1) Within one year after the enactment of this Act the Secretary of State shall, in cooperation with the Administrator and as part of the international consultations pursuant to subsection 118(f), negotiate with all nations that are identified in such subsection for the purpose of establishing international stable reference areas in which no mining shall take place: *Provided, however,* That this subsection shall not be construed as requiring any substantial withdrawal of deep seabed areas from deep seabed mining authorized by this Act.

(2) Nothing in this Act shall be construed as authorizing the United States to unilaterally establish such reference area or areas nor shall the United States recognize the unilateral claim to such reference area or areas by any State.

Report to Congress. (3) Within four years after the enactment of this Act, the Secretary of State shall submit a report to Congress on the progress of establishing such stable reference areas, including the designation of appropriate zones to insure a representative and stable biota of the deep seabed.

"Stable reference areas." (4) For purposes of this section "stable reference areas" shall mean an area or areas of the deep seabed to be used as a reference zone or zones for purposes of resource evaluation and environmental assessment of deep seabed mining in which no mining will occur.

30 USC 1420. **SEC. 110. CONSERVATION OF NATURAL RESOURCES.**

For the purpose of conservation of natural resources, each license and permit issued under this title shall contain, as needed, terms, conditions, and restrictions which have due regard for the prevention of waste and the future opportunity for the commercial recovery of the unrecovered balance of the hard mineral resources in the area to which the license or permit applies. In establishing these terms, conditions, and restrictions, the Administrator shall consider the state of the technology, the processing system utilized and the value and potential use of any waste, the environmental effects of the exploration or commercial recovery activities, economic and resource

"Conservation of natural resources." data, and the national need for hard mineral resources. As used in

this Act, the term "conservation of natural resources" is not intended to grant, imply, or create any inference of production controls or price regulation, in particular those which would affect the volume of production, prices, profits, markets, or the decision of which minerals or metals are to be recovered, except as such effects may be incidental to actions taken pursuant to this section.

SEC. 111. PREVENTION OF INTERFERENCE WITH OTHER USES OF THE HIGH SEAS. 30 USC 1421.

Each license and permit issued under this title shall include such restrictions as may be necessary and appropriate to ensure that exploration or commercial recovery activities conducted by the licensee or permittee do not unreasonably interfere with the interests of other states in their exercise of the freedoms of the high seas, as recognized under general principles of international law.

SEC. 112. SAFETY OF LIFE AND PROPERTY AT SEA. 30 USC 1422.

(a) CONDITIONS REGARDING VESSELS.—The Secretary of the department in which the Coast Guard is operating, in consultation with the Administrator, shall require in any license or permit issued under this title, in conformity with principles of international law, that vessels documented under the laws of the United States and used in activities authorized under the license or permit comply with conditions regarding the design, construction, alteration, repair, equipment, operation, manning, and maintenance relating to vessel and crew safety and the promotion of safety of life and property at sea.

(b) APPLICABILITY OF OTHER LAWS.—Notwithstanding any other provision of law, any vessel described in subsection (a) shall be subject to the provisions of the International Voyage Load Line Act of 1973, and to the provisions of titles 52 and 53 of the Revised Statutes and all Acts amendatory thereof or supplementary thereto. 46 USC 86 note. 46 USC 362 note, 543 note.

SEC. 113. RECORDS, AUDITS, AND PUBLIC DISCLOSURE. 30 USC 1423.

(a) RECORDS AND AUDITS.—(1) Each licensee and permittee shall keep such records, consistent with standard accounting principles, as the Administrator shall by regulation prescribe. Such records shall include information which will fully disclose expenditures for exploration and commercial recovery, including processing, of hard mineral resources, and such other information as will facilitate an effective audit of such expenditures.

(2) The Administrator and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access, for purposes of audit and examination, to any books, documents, papers, and records of licensees and permittees which are necessary and directly pertinent to verify the expenditures referred to in paragraph (1). Accessibility.

(b) SUBMISSION OF DATA AND INFORMATION.—Each licensee and permittee shall be required to submit to the Administrator such data or other information as the Administrator may reasonably need for purposes of making determinations with respect to the issuance, revocation, modification, or suspension of any license or permit; compliance with the reporting requirement contained in section 309; and evaluation of the exploration or commercial recovery activities conducted by the licensee or permittee.

(c) PUBLIC DISCLOSURE.—Copies of any document, report, communication, or other record maintained or received by the Administrator containing data or information required under this title shall be made available to any person upon any request which (1) reasonably

describes such record and (2) is made in accordance with rules adopted by the Administrator stating the time, place, fees (if any, not to exceed the direct cost of the services rendered), and procedures to be followed, except that neither the Administrator nor any other officer or employee of the United States may disclose any data or information knowingly and willingly required under this title the disclosure of which is prohibited by section 1905 of title 18, United States Code. Any officer or employee of the United States who discloses data or information in violation of this subsection shall be subject to the penalties set forth in section 303(b) of this Act.

Penalties.

30 USC 1424.

SEC. 114. MONITORING OF ACTIVITIES OF LICENSEES AND PERMITTEES.

Each license and permit issued under this title shall require the licensee or permittee—

Federal observers.

(1) to allow the Administrator to place appropriate Federal officers or employees as observers aboard vessels used by the licensee or permittee in exploration or commercial recovery activities (A) to monitor such activities at such time, and to such extent, as the Administrator deems reasonable and necessary to assess the effectiveness of the terms, conditions, and restrictions of the license or permit, and (B) to report to the Administrator whenever such officers or employees have reason to believe there is a failure to comply with such terms, conditions, and restrictions;

(2) to cooperate with such officers and employees in the performance of monitoring functions; and

(3) to monitor the environmental effects of the exploration and commercial recovery activities in accordance with guidelines issued by the Administrator and to submit such information as the Administrator finds to be necessary and appropriate to assess environmental impacts and to develop and evaluate possible methods of mitigating adverse environmental effects.

30 USC 1425.

SEC. 115. RELINQUISHMENT, SURRENDER, AND TRANSFER OF LICENSES AND PERMITS.

(a) RELINQUISHMENT AND SURRENDER.—Any licensee or permittee may at any time, without penalty—

(1) surrender to the Administrator a license or a permit issued to the licensee or permittee; or

(2) relinquish to the Administrator, in whole or in part, any right to conduct any exploration or commercial recovery activities authorized by the license or permit.

Liability.

Any licensee or permittee who surrenders a license or permit, or relinquishes any such right, shall remain liable with respect to all violations and penalties incurred, and damage to persons or property caused, by the licensee or permittee as a result of activities engaged in by the licensee or permittee under such license or permit.

(b) TRANSFER.—Any license or permit, upon written request of the licensee or permittee, may be transferred by the Administrator; except that no such transfer may occur unless the proposed transferee is a United States citizen and until the Administrator determines that (1) the proposed transfer is in the public interest, and (2) the proposed transferee and the exploration or commercial recovery activities the transferee proposes to conduct meet the requirements of this Act and regulations issued under this Act.

SEC. 116. PUBLIC NOTICE AND HEARINGS.

30 USC 1426.

(a) REQUIRED PROCEDURES.—The Administrator may issue regulations to carry out this Act, establish and significantly modify terms, conditions, and restrictions in licenses and permits issued under this title, and issue or transfer licenses and permits under this title, only after public notice and opportunity for comment and hearings in accordance with the following:

(1) The Administrator shall publish in the Federal Register notice of all applications for licenses and permits, all proposals to issue or transfer licenses and permits, all regulations implementing this Act, all terms, conditions, and restrictions on licenses and permits, and all proposals to significantly modify licenses and permits. Interested persons shall be permitted to examine the materials relevant to any of these actions, and shall have at least 60 days after publication of such notice to submit written comments to the Administrator.

Publication in Federal Register.

Comments.

(2) The Administrator shall hold a public hearing in an appropriate location and may employ such additional methods as the Administrator deems appropriate to inform interested persons about each action specified in paragraph (1) and to invite their comments thereon.

(b) ADJUDICATORY HEARING.—If the Administrator determines that there exists one or more specific and material factual issues which require resolution by formal processes, at least one adjudicatory hearing shall be held in the District of Columbia in accordance with the provisions of section 554 of title 5, United States Code. The record developed in any such adjudicatory hearing shall be part of the basis for the Administrator's decision to take any action referred to in subsection (a). Hearings held pursuant to this section shall be consolidated insofar as practicable with hearings held by other agencies.

Consolidation of hearings.

SEC. 117. CIVIL ACTIONS.

30 USC 1427.

(a) EQUITABLE RELIEF.—Except as provided in subsection (b) of this section, any person may commence a civil action for equitable relief on that person's behalf in the United States District Court for the District of Columbia—

(1) against any person who is alleged to be in violation of any provision of this Act or any condition of a license or permit issued under this title; or

(2) against the Administrator when there is alleged a failure of the Administrator to perform any act or duty under this Act which is not discretionary,

if the person bringing the action has a valid legal interest which is or may be adversely affected by such alleged violation or failure to perform. In suits brought under this subsection, the district court shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce the provisions of this Act, or any term, condition, or restriction of a license or permit issued under this title, or to order the Administrator to perform such act or duty.

(b) NOTICE.—No civil action may be commenced—

(1) under subsection (a)(1) of this section—

(A) prior to 60 days after the plaintiff has given notice of the alleged violation to the Administrator and to any alleged violator; or

(B) if the Administrator or the Attorney General has commenced and is diligently prosecuting a civil or criminal

action with respect to the alleged violation in a court of the United States; except that in any such civil action, any person having a valid legal interest which is or may be adversely affected by the alleged violation may intervene; or

(2) under subsection (a)(2) of this section, prior to 60 days after the plaintiff has given notice of such action to the Administrator. Notice under this subsection shall be given in such a manner as the Administrator shall prescribe by regulation.

(c) COSTS AND FEES.—The court, in issuing any final order in any action brought under subsection (a) of this section, may award costs of litigation, including reasonable attorney and expert witness fees, to any party whenever the court determines that such an award is appropriate.

(d) RELATIONSHIP TO OTHER LAW.—Nothing in this section shall restrict the rights which any person or class of persons may have under other law to seek enforcement or to seek any other relief. All vessel safety and environmental requirements of or under this Act shall be in addition to other requirements of law.

30 USC 1428.

SEC. 118. RECIPROCATING STATES.

(a) DESIGNATION.—The Administrator, in consultation with the Secretary of State and the heads of other appropriate departments and agencies, may designate any foreign nation as a reciprocating state if the Secretary of State finds that such foreign nation—

(1) regulates the conduct of its citizens and other persons subject to its jurisdiction engaged in exploration for, and commercial recovery of, hard mineral resources of the deep seabed in a manner compatible with that provided in this Act and the regulations issued under this Act, which includes adequate measures for the protection of the environment, the conservation of natural resources, and the safety of life and property at sea, and includes effective enforcement provisions;

(2) recognizes licenses and permits issued under this title to the extent that such nation, under its laws, (A) prohibits any person from engaging in exploration or commercial recovery which conflicts with that authorized under any such license or permit and (B) complies with the date for issuance of licenses and the effective date for permits provided in section 102(c)(1)(D) of this Act;

(3) recognizes, under its procedures, priorities of right, consistent with those provided in this Act and the regulations issued under this Act, for applications for licenses for exploration or permits for commercial recovery, which applications are made either under its procedures or under this Act; and

(4) provides an interim legal framework for exploration and commercial recovery which does not unreasonably interfere with the interests of other states in their exercise of the freedoms of the high seas, as recognized under general principles of international law.

(b) EFFECT OF DESIGNATION.—No license or permit shall be issued under this title permitting any exploration or commercial recovery which will conflict with any license, permit, or equivalent authorization issued by any foreign nation which is designated as a reciprocating state under subsection (a).

(c) NOTIFICATION.—Upon receipt of any application for a license or permit under this title, the Administrator shall immediately notify all reciprocating states of such application. The notification shall include those portions of the exploration plan or recovery plan

submitted with respect to the application, or a summary thereof, and any other appropriate information not required to be withheld from public disclosure by section 113(c).

(d) REVOCATION OF RECIPROCATING STATE STATUS.—The Administrator, in consultation with the Secretary of State and the heads of other appropriate departments and agencies, shall revoke the designation of a foreign nation as a reciprocating state if the Secretary of State finds that such foreign nation no longer complies with the requirements of subsection (a). At the request of any holder of a license, permit, or equivalent authorization of such foreign nation, who obtained the license, permit, or equivalent authorization while such foreign nation was a reciprocating state, the Administrator, in consultation with the Secretary of State, may decide to recognize the license, permit, or equivalent authorization for purposes of subsection (b). Consultation.

(e) AUTHORIZATION.—The President is authorized to negotiate agreements with foreign nations necessary to implement this section. Presidential negotiation.

(f) INTERNATIONAL CONSULTATIONS.—The Administrator, in consultation with the Secretary of State and the heads of other appropriate departments and agencies, shall consult with foreign nations which enact, or are preparing to enact, domestic legislation establishing an interim legal framework for exploration and commercial recovery of hard mineral resources. Such consultations shall be carried out with a view to facilitating the designation of such nations as reciprocating states and, as necessary, the negotiation of agreements with foreign nations authorized by subsection (e). In addition, the Administrator shall provide such foreign nations with information on environmental impacts of exploration and commercial recovery activities, and shall provide any technical assistance requested in designing regulatory measures to protect the environment. Assistance on environmental protection.

TITLE II—TRANSITION TO INTERNATIONAL AGREEMENT

SEC. 201. DECLARATION OF CONGRESSIONAL INTENT.

30 USC 1441.

It is the intent of Congress—

(1) that any international agreement to which the United States becomes a party should, in addition to promoting other national oceans objectives—

(A) provide assured and nondiscriminatory access, under reasonable terms and conditions, to the hard mineral resources of the deep seabed for United States citizens, and

(B) provide security of tenure by recognizing the rights of United States citizens who have undertaken exploration or commercial recovery under title I before such agreement enters into force with respect to the United States to continue their operations under terms, conditions, and restrictions which do not impose significant new economic burdens upon such citizens with respect to such operations with the effect of preventing the continuation of such operations on a viable economic basis; *Ante*, p. 557.

(2) that the extent to which any such international agreement conforms to the provisions of paragraph (1) should be determined by the totality of the provisions of such agreement, including, but not limited to, the practical implications for the security of investments of any discretionary powers granted to an international regulatory body, the structures and decisionmaking procedures of such body, the availability of impartial and effective procedures for the settlement of disputes, and any features that

tend to discriminate against exploration and commercial recovery activities undertaken by United States citizens; and

(3) that this Act should be transitional pending—

(A) the adoption of an international agreement at the Third United Nations Conference on the Law of the Sea, and the entering into force of such agreement, or portions thereof, with respect to the United States, or

(B) if such adoption is not forthcoming, the negotiation of a multilateral or other treaty concerning the deep seabed, and the entering into force of such treaty with respect to the United States.

30 USC 1442.

SEC. 202. EFFECT OF INTERNATIONAL AGREEMENT.

If an international agreement enters into force with respect to the United States, any provision of title I, this title, or title III, and any regulation issued under any such provision, which is not inconsistent with such international agreement shall continue in effect with respect to United States citizens. In the implementation of such international agreement the Administrator, in consultation with the Secretary of State, shall make every effort, to the maximum extent practicable consistent with the provisions of that agreement, to provide for the continued operation of exploration and commercial recovery activities undertaken by United States citizens prior to entry into force of the agreement. The Administrator shall submit to the Congress, within one year after the date of such entry into force, a report on the actions taken by the Administrator under this section, which report shall include, but not be limited to—

Ante, p. 557.

Report to Congress.

(1) a description of the status of deep seabed mining operations of United States citizens under the international agreement; and

(2) an assessment of whether United States citizens who were engaged in exploration or commercial recovery on the date such agreement entered into force have been permitted to continue their operations.

30 USC 1443.

SEC. 203. PROTECTION OF INTERIM INVESTMENTS.

In order to further the objectives set forth in section 201, the Administrator, not more than one year after the date of enactment of this Act—

Proposed legislation, submittal to Congress.

(1) shall submit to the Congress proposed legislation necessary for the United States to implement a system for the protection of interim investments that has been adopted as part of an international agreement and any resolution relating to such international agreement; or

Status of negotiations, report to Congress.

(2) if a system for the protection of interim investments has not been so adopted, shall report to the Congress on the status of negotiations relating to the establishment of such a system.

30 USC 1444.

SEC. 204. DISCLAIMER OF OBLIGATION TO PAY COMPENSATION.

Sections 201 and 202 of this Act do not create or express any legal or moral obligation on the part of the United States Government to compensate any person for any impairment of the value of that person's investment in any operation for exploration or commercial recovery under title I which might occur in connection with the entering into force of an international agreement with respect to the United States.

TITLE III—ENFORCEMENT AND MISCELLANEOUS PROVISIONS

SEC. 301. PROHIBITED ACTS.

30 USC 1461.

It is unlawful for any person who is a United States citizen, or a foreign national on board a vessel documented or numbered under the laws of the United States, or subject to the jurisdiction of the United States under a reciprocating state agreement negotiated under section 118(e)—

(1) to violate any provision of this Act, any regulation issued under this Act, or any term, condition, or restriction of any license or permit issued to such person under this Act;

(2) to engage in exploration or commercial recovery after the revocation, or during the period of suspension, of an applicable license or permit issued under this Act, to engage in a particular exploration or commercial recovery activity during the period such activity has been suspended under this Act, or to fail to modify a particular exploration or commercial recovery activity for which modification was required under this Act;

(3) to refuse to permit any Federal officer or employee authorized to monitor or enforce the provisions of this Act, as provided in sections 114 and 304, to board a vessel documented or numbered under the laws of the United States, or any vessel for which such boarding is authorized by a treaty or executive agreement, for purposes of conducting any search or inspection in connection with the monitoring or enforcement of this Act or any regulation, term, condition, or restriction referred to in paragraph (1);

(4) to forcibly assault, resist, oppose, impede, intimidate, or interfere with any such authorized officer or employee in the conduct of any search or inspection described in paragraph (3);

(5) to resist a lawful arrest for any act prohibited by this section;

(6) to ship, transport, offer for sale, sell, purchase, import, export, or have custody, control, or possession of any hard mineral resource recovered, processed, or retained in violation of this Act or any regulation, term, condition, or restriction referred to in paragraph (1); or

(7) to interfere with, delay, or prevent, by any means, the apprehension or arrest of any other person subject to this section knowing that such other person has committed any act prohibited by this section.

SEC. 302. CIVIL PENALTIES.

30 USC 1462.

(a) ASSESSMENT OF PENALTY.—Any person subject to section 301 who is found by the Administrator, after notice and an opportunity for a hearing in accordance with section 554 of title 5, United States Code, to have committed any act prohibited by section 301 shall be liable to the United States for a civil penalty. The amount of the civil penalty shall not exceed $25,000 for each violation. Each day of a continuing violation shall constitute a separate offense. The amount of such civil penalty shall be assessed by the Administrator by written notice. In determining the amount of such penalty, the Administrator shall take into account the nature, circumstances, extent, and gravity of the prohibited act committed and, with respect to the violator, any history of prior offenses, good faith demonstrated in attempting to achieve timely compliance after being cited for the violation, and such other matters as justice may require.

Written notice.

Appeal filing, copy to Administrator.

(b) REVIEW OF CIVIL PENALTY.—Any person subject to section 301 against whom a civil penalty is assessed under subsection (a) may obtain review thereof in an appropriate district court of the United States by filing a notice of appeal in such court within 30 days from the date of such order and by simultaneously sending a copy of such notice by certified mail to the Administrator. The Administrator shall promptly file in such court a certified copy of the record upon which the particular violation was found and such penalty was imposed, as provided in section 2112 of title 28, United States Code. The findings and order of the Administrator shall be set aside by such court if they are not found to be supported by substantial evidence, as provided in section 706(2)(E) of title 5, United States Code.

Referral to Attorney General.

(c) ACTION UPON FAILURE TO PAY ASSESSMENT.—If any person subject to section 301 fails to pay a civil penalty assessed against such person after the penalty has become final, or after the appropriate court has entered final judgment in favor of the Administrator, the Administrator shall refer the matter to the Attorney General of the United States, who shall recover the civil penalty assessed in any appropriate district court of the United States. In such action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

(d) COMPROMISE OR OTHER ACTION BY THE ADMINISTRATOR.—The Administrator may compromise, modify, or remit, with or without conditions, any civil penalty which is subject to imposition or which has been imposed under this section unless an action brought under subsection (b) or (c) is pending in a court of the United States.

30 USC 1463.

SEC. 303. CRIMINAL OFFENSES.

(a) OFFENSE.—A person subject to section 301 is guilty of an offense if such person willfully and knowingly commits any act prohibited by section 301.

(b) PUNISHMENT.—Any offense described in paragraphs (1), (2), and (6) of section 301 is punishable by a fine of not more than $75,000 for each day during which the violation continues. Any offense described in paragraphs (3), (4), (5), and (7) of section 301 is punishable by a fine of not more than $75,000 or imprisonment for not more than six months, or both. If, in the commission of any offense, the person subject to the jurisdiction of the United States uses a dangerous weapon, engages in conduct that causes bodily injury to any Federal officer or employee, or places any such Federal officer or employee in fear of imminent bodily injury, the offense is punishable by a fine of not more than $100,000 or imprisonment for not more than ten years, or both.

30 USC 1464.

SEC. 304. ENFORCEMENT.

Coast Guard, assistance.

(a) RESPONSIBILITY.—Subject to the other provisions of this subsection, the Administrator shall enforce the provisions of this Act. The Secretary of the department in which the Coast Guard is operating shall exercise such other enforcement responsibilities with respect to vessels subject to the provisions of this Act as are authorized under other provisions of law and may, upon the specific request of the Administrator, assist the Administrator in the enforcement of the provisions of this Act. The Secretary of the department in which the Coast Guard is operating shall have the exclusive responsibility for enforcement measures which affect the safety of life and property at sea. The Administrator and the Secretary of the department in which the Coast Guard is operating may, by agreement, on a reimbursable basis or otherwise, utilize the personnel, services, equipment, includ-

Other Federal agencies, assistance.

ing aircraft and vessels, and facilities of any other Federal agency or department, and may authorize officers or employees of other departments or agencies to provide assistance as necessary in carrying out subsection (b). While providing such assistance, these officers and employees shall be under the control, authority, and supervision of the Coast Guard. The Administrator and the Secretary of the department in which the Coast Guard is operating may issue regulations jointly or severally as may be necessary and appropriate to carry out their duties under this section.

(b) POWERS OF AUTHORIZED OFFICERS.—To enforce this Act on board any vessel subject to the provisions of this Act, any officer who is authorized by the Administrator or by the Secretary of the department in which the Coast Guard is operating may—

(1) board and inspect any vessel which is subject to the provisions of this Act;

(2) search any such vessel if the officer has reasonable cause to believe that the vessel has been used or employed in the violation of any provision of this Act;

(3) arrest any person subject to section 301 if the officer has reasonable cause to believe that the person has committed a criminal offense under section 303;

(4) seize any such vessel together with its gear, furniture, appurtenances, stores, and cargo, used or employed in, or with respect to which it reasonably appears that such vessel was used or employed in, the violation of any provision of this Act if such seizure is necessary to prevent evasion of the enforcement of this Act;

(5) seize any hard mineral resource recovered or processed in violation of any provision of this Act;

(6) seize any other evidence related to any violation of any provision of this Act;

(7) execute any warrant or other process issued by any court of competent jurisdiction; and

(8) exercise any other lawful authority.

(c) DEFINITION.—For purposes of this section, the term "provisions of this Act" or "provision of this Act" means (1) any provision of title I or II or this title, (2) any regulation issued under title I, title II, or this title, and (3) any term, condition, or restriction of any license or permit issued under title I.

Ante, pp. 557, 575, 577.

(d) PROPRIETARY INFORMATION.—Proprietary and privileged information seized or maintained under this title concerning a person or vessel engaged in exploration or commercial recovery shall not be made available for general or public use or inspection. The Administrator and the Secretary of the department in which the Coast Guard is operating shall issue regulations to insure the confidentiality of privileged and proprietary information.

Regulations.

SEC. 305. LIABILITY OF VESSELS.

30 USC 1465.

Any vessel documented or numbered under the laws of the United States (except a public vessel engaged in noncommercial activities) which is used in any violation of this Act, any regulation issued under this Act, or any term, condition, or restriction of any license or permit issued under title I shall be liable in rem for any civil penalty assessed or criminal fine imposed and may be proceeded against in any district court of the United States having jurisdiction thereof.

30 USC 1166

SEC. 306. CIVIL FORFEITURES.

(a) IN GENERAL.—Any vessel subject to the provisions of sections 304 and 305, including its gear, furniture, appurtenances, stores, and cargo, which is used, in any manner, in connection with or as a result of the commission of any act prohibited by section 301 and any hard mineral resource which is recovered, processed, or retained, in any manner, in connection with or as a result of the commission of any such act, shall be subject to forfeiture to the United States. All or part of such vessel, and all such hard mineral resources, may be forfeited to the United States pursuant to a civil proceeding under this section. All provisions of law relating to the seizure, judicial forfeiture, and condemnation of a vessel or cargo for violation of the customs laws, and the disposition of the vessel, cargo, or proceeds from the sale thereof and the remission or mitigation of such forfeitures shall apply to seizures and forfeitures incurred or alleged to have been incurred under the provisions of this section insofar as such provisions of law are applicable and not inconsistent with this Act.

(b) JURISDICTION OF COURTS.—Any district court of the United States which has jurisdiction under section 307 shall have jurisdiction, upon application by the Attorney General on behalf of the United States, to order any forfeiture authorized under subsection (a) and any action provided for under subsection (d).

Seizure of property by Attorney General

(c) JUDGMENT.—If a judgment is entered for the United States in a civil forfeiture proceeding under this section, the Attorney General may seize any property or other interest declared forfeited to the United States which has not previously been seized pursuant to this Act or for which security has not previously been obtained under subsection (d).

Bond or other security

(d) PROCEDURE.—Any officer authorized to serve any process in rem which is issued by a court having jurisdiction under section 307 shall stay the execution of such process, or discharge any property seized pursuant to such process, upon the receipt of a satisfactory bond or other security from any person subject to section 301 claiming such property. Such bond or other security shall be conditioned upon such person (1) delivering such property to the appropriate court upon order thereof, without any impairment of its value; or (2) paying the monetary value of such property pursuant to any order of such court. Judgment shall be recoverable on such bond or other security against both the principal and any sureties in the event that any condition thereof is breached, as determined by such court.

(e) REBUTTABLE PRESUMPTION.—For purposes of this section, it shall be a rebuttable presumption that all hard mineral resources found on board a vessel subject to the provisions of sections 304 and 305 which is seized in connection with an act prohibited by section 301 were recovered, processed, or retained in violation of this Act.

30 USC 1167

SEC. 307. JURISDICTION OF COURTS.

The district courts of the United States shall have exclusive jurisdiction over any case or controversy arising under the provisions of this Act. These courts may, at any time—

(1) enter restraining orders or prohibitions;

(2) issue warrants, process in rem, or other process;

(3) prescribe and accept satisfactory bonds or other security; and

(4) take such other actions as are in the interest of justice.

SEC. 308. REGULATIONS.

(a) PROPOSED REGULATIONS.—Not later than 270 days after the date of enactment of this Act, the Administrator shall solicit the views of the agency heads referred to in section 109(b) and of interested persons, and issue, in accordance with section 553 of title 5, United States Code, such proposed regulations as are required by or are necessary and appropriate to implement titles I and II and this title. The Administrator shall hold at least one public hearing on such proposed regulations.

30 USC 1468. Solicitation of views.

Ante, pp. 557, 575. Public hearing.

(b) FINAL REGULATIONS.—Not later than 180 days after the date on which proposed regulations are issued pursuant to subsection (a), the Administrator shall solicit the views of the agency heads referred to in section 109(b) and of interested persons, consider the comments received during the public hearing required in subsection (a) and any written comments on the proposed regulations received by the Administrator, and issue, in accordance with section 553 of title 5, United States Code, such regulations as are required by or are necessary and appropriate to implement titles I and II and this title.

Views and comments, solicitation and consideration.

(c) AMENDMENTS.—The Administrator may at any time amend regulations issued pursuant to subsection (b) as the Administrator determines to be necessary and appropriate in order to provide for the conservation of natural resources within the meaning of section 110, protection of the environment, and the safety of life and property at sea. Such amended regulations shall apply to all exploration or commercial recovery activities conducted under any license or permit issued or maintained pursuant to this Act; except that any such amended regulations which provide for conservation of natural resources shall apply to exploration or commercial recovery conducted under an existing license or permit during the present term of such license or permit only if the Administrator determines that such amended regulations providing for conservation of natural resources will not impose serious or irreparable economic hardship on the licensee or permittee. Any amendment to regulations under this subsection shall be made on the record after an opportunity for an agency hearing.

Hearing.

(d) CONSISTENCY.—This Act and the regulations issued under this Act shall not be deemed to supersede any other Federal laws or treaties or regulations issued thereunder.

SEC. 309. BIENNIAL REPORT.

30 USC 1469.

(a) SUBMISSION OF REPORTS.—The Administrator shall submit to the Congress—

(1) not later than December 31, 1981, a report on the administration of this Act during the period beginning on the date of enactment of this Act and ending September 30, 1981; and

(2) not later than December 31 of each second year thereafter, a report on the administration of this Act during the two fiscal years preceding the date on which the report is required to be filed.

(b) CONTENTS.—Each report filed pursuant to subsection (a) shall include, but not be limited to, the following information with respect to the reporting period:

(1) Licenses and permits issued, modified, revised, suspended, revoked, relinquished, surrendered, or transferred; denials of certifications of applications for the issuance or transfer of licenses and permits; denials of issuance or transfer of licenses and permits; and required suspensions and modifications of activities under licenses and permits.

(2) A description and evaluation of the exploration and commercial recovery activities undertaken, including, but not limited to, information setting forth the quantities of hard mineral resources recovered and the disposition of such resources.

(3) An assessment of the environmental impacts, including a description and estimate of any damage caused by any adverse effects on the quality of the environment resulting from such activities.

(4) The number and description of all civil and criminal proceedings, including citations, instituted under this title, and the current status of such proceedings.

(5) Such recommendations as the Administrator deems appropriate for amending this Act to further fulfill its purposes.

30 USC 1470.

SEC. 310. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Administrator, for purposes of carrying out the provisions of titles I and II and this title, such sums as may be necessary for the fiscal years ending September 30, 1981, and September 30, 1982.

30 USC 1471.

SEC. 311. SEVERABILITY.

If any provision of this Act or any application thereof is held invalid, the validity of the remainder of the Act, or any other application, shall not be affected thereby.

TITLE IV—TAX

Deep Seabed Hard Mineral Removal Tax Act of 1979.
26 USC 1 note.

SEC. 401. SHORT TITLE.

This title may be cited as the "Deep Seabed Hard Mineral Removal Tax Act of 1979".

SEC. 402. IMPOSITION OF TAX ON REMOVAL OF HARD MINERAL RESOURCES FROM DEEP SEABED.

(a) GENERAL RULE.—Chapter 36 of the Internal Revenue Code of 1954 (relating to certain other excise taxes) is amended by adding at the end thereof the following new subchapter:

"Subchapter F—Tax on Removal of Hard Mineral Resources From Deep Seabed

"Sec. 4495. Imposition of tax.
"Sec. 4496. Definitions.
"Sec. 4497. Imputed value.
"Sec. 4498. Termination.

26 USC 4495.

"SEC. 4495. IMPOSITION OF TAX.

"(a) GENERAL RULE.—There is hereby imposed a tax on any removal of a hard mineral resource from the deep seabed pursuant to a deep seabed permit.

"(b) AMOUNT OF TAX.—The amount of the tax imposed by subsection (a) on any removal shall be 3.75 percent of the imputed value of the resource so removed.

"(c) LIABILITY FOR TAX.—The tax imposed by subsection (a) shall be paid by the person to whom the deep seabed permit is issued.

"(d) TIME FOR PAYING TAX.—The time for paying the tax imposed by subsection (a) shall be the time prescribed by the Secretary by regulations. The time so prescribed with respect to any removal shall be not earlier than the earlier of—

"(1) the commercial use of, or the sale or disposition of, any portion of the resource so removed, or

"(2) the day which is 12 months after the date of the removal of the resource.

"SEC. 4496. DEFINITIONS. 26 USC 4496.

"(a) DEEP SEABED PERMIT.—For purposes of this subchapter, the term 'deep seabed permit' means a permit issued under title I of the Deep Seabed Hard Minerals Resources Act.

"(b) HARD MINERAL RESOURCE.—For purposes of this subchapter, the term 'hard mineral resource' means any deposit or accretion on, or just below, the surface of the deep seabed of nodules which contain one or more minerals, at least one of which is manganese, nickel, cobalt, or copper.

"(c) DEEP SEABED.—For purposes of this subchapter, the term 'deep seabed' means the seabed, and the subsoil thereof to a depth of 10 meters, lying seaward of, and outside—

"(1) the Continental Shelf of any nation; and

"(2) any area of national resource jurisdiction of any foreign nation, if such area extends beyond the Continental Shelf of such nation and such jurisdiction is recognized by the United States.

"(d) CONTINENTAL SHELF.—For purposes of this subchapter, the term 'Continental Shelf' means—

"(1) the seabed and subsoil of the submarine areas adjacent to the coast but outside the area of the territorial sea, to a depth of 200 meters or, beyond that limit, to where the depth of the superjacent waters admits of the exploitation of the natural resources of such areas; and

"(2) the seabed and subsoil of similar submarine areas adjacent to the coasts of islands.

"SEC. 4497. IMPUTED VALUE. 26 USC 4497.

"(a) IN GENERAL.—For purposes of this subchapter, the term 'imputed value' means, with respect to any hard mineral resource, 20 percent of the fair market value of the commercially recoverable metals and minerals contained in such resource. Such fair market value shall be determined—

"(1) as of the date of the removal of the hard mineral resource from the deep seabed; and

"(2) as if the metals and minerals contained in such resource were separated from such resource and were in the most basic form for which there is a readily ascertainable market price.

"(b) COMMERCIAL RECOVERABILITY.—

"(1) MANGANESE, NICKEL, COBALT, AND COPPER.—For purposes of subsection (a), manganese, nickel, cobalt, and copper shall be treated as commercially recoverable.

"(2) MINIMUM QUANTITIES AND PERCENTAGES.—The Secretary may by regulations prescribe for each metal or mineral quantities or percentages below which the metal or mineral shall be treated as not commercially recoverable.

"(c) SUSPENSION OF TAX WITH RESPECT TO CERTAIN METALS AND MINERALS HELD FOR LATER PROCESSING.—

"(1) ELECTION.—The permittee may, in such manner and at such time as may be prescribed by regulations, elect to have the application of the tax suspended with respect to one or more commercially recoverable metals or minerals in the resource which the permittee does not intend to process within one year of the date of extraction. Any metal or mineral affected by such

election shall not be taken into account in determining the imputed value of the resource at the time of its removal from the deep seabed. Any suspension under this paragraph with respect to a metal or mineral shall be permanent unless there is a redetermination affecting such metal or mineral under paragraph (2).

"(2) LATER COMPUTATION OF TAX.—If the permittee processes any metal or mineral affected by the election under paragraph (1), or if he sells any portion of the resource containing such a metal or mineral, then the amount of the tax under section 4495 shall be redetermined as if there had been no suspension under paragraph (1) with respect to such metal or mineral. In any such case there shall be added to the increase in tax determined under the preceding sentence an amount equal to the interest (at rates determined under section 6621) on such increase for the period from the date prescribed for paying the tax on the resources (determined under section 4495(d)) to the date of the processing or sale.

26 USC 6621.

Ante, p. 582.

"(d) DETERMINATIONS OF VALUE.—All determinations of value necessary for the application of this subchapter shall be made by the Secretary (after consultation with other appropriate Federal officials) on the basis of the best available information. Such determinations shall be made under procedures established by the Secretary by regulations.

26 USC 4498.

"SEC. 4498. TERMINATION.

Ante, p. 582.

"(a) GENERAL RULE.—The tax imposed by section 4495 shall not apply to any removal from the deep seabed after the earlier of—

"(1) the date on which an international deep seabed treaty takes effect with respect to the United States, or

"(2) the date 10 years after the date of the enactment of this subchapter.

"(b) INTERNATIONAL DEEP SEABED TREATY.—For purposes of subsection (a), the term 'international deep seabed treaty' means any treaty which—

"(1) is adopted by a United Nations Conference on the Law of the Sea, and

"(2) requires contributions to an international fund for the sharing of revenues from deep seabed mining.".

(b) CLERICAL AMENDMENT.—The table of subchapters for chapter 36 of such Code is amended by adding at the end thereof the following new item:

"SUBCHAPTER F. Tax on removal of hard mineral resources from deep seabed."

26 USC 4495 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1980.

30 USC 1472.

SEC. 103. ESTABLISHMENT OF DEEP SEABED REVENUE SHARING TRUST FUND.

(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the "Deep Seabed Revenue Sharing Trust Fund" (hereinafter in this section referred to as the "Trust Fund"), consisting of such amounts as may be appropriated or credited to the Trust Fund as provided in this section.

(b) TRANSFER TO TRUST FUND OF AMOUNTS EQUIVALENT TO CERTAIN TAXES.—

(1) IN GENERAL.—There are hereby appropriated to the Trust Fund amounts determined by the Secretary of the Treasury to be

equivalent to the amounts of the taxes received in the Treasury under section 4495 of the Internal Revenue Code of 1954.

Ante, p. 582.

(2) METHOD OF TRANSFER.—The amounts appropriated by paragraph (1) shall be transferred at least quarterly from the general fund of the Treasury to the Trust Fund on the basis of estimates made by the Secretary of the Treasury of the amounts referred to in paragraph (1) received in the Treasury. Proper adjustments shall be made in the amounts subsequently transferred to the extent prior estimates were in excess of or less than the amount required to be transferred.

(c) MANAGEMENT OF TRUST FUND.—

(1) REPORT.—It shall be the duty of the Secretary of the Treasury to hold the Trust Fund, and to report to the Congress for the fiscal year ending September 30, 1980, and each fiscal year thereafter on the financial condition and the results of the operations of the Trust Fund during the preceding year and on its expected condition and operations during the fiscal year and the next five fiscal years after the fiscal year. Such report shall be printed as a House document of the session of the Congress to which the report is made.

Printing as House document.

(2) INVESTMENT.—

(A) IN GENERAL.—It shall be the duty of the Secretary of the Treasury to invest such portion of the Trust Fund as is not, in his judgment, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States. For such purpose, such obligations may be acquired (i) on original issue at the issue price, or (ii) by purchase of outstanding obligations at the market price.

(B) SALE OF OBLIGATIONS.—Any obligation acquired by the Trust Fund may be sold by the Secretary at the market price.

(C) INTEREST ON CERTAIN PROCEEDS.—The interest on, and the proceeds from the sale or redemption of, any obligations held in the Trust Fund shall be credited to and form a part of the Trust Fund.

(d) EXPENDITURES FROM TRUST FUND.—If an international deep seabed treaty is ratified by and in effect with respect to the United States on or before the date ten years after the date of the enactment of this Act, amounts in the Trust Fund shall be available, as provided by appropriations Acts, for making contributions required under such treaty for purposes of the sharing among nations of the revenues from deep seabed mining. Nothing in this subsection shall be deemed to authorize any program or other activity not otherwise authorized by law.

(e) USE OF FUNDS.—If an international deep seabed treaty is not in effect with respect to the United States on or before the date ten years after the date of the enactment of this Act, amounts in the Trust Fund shall be available for such purposes as Congress may hereafter provide by law.

(f) INTERNATIONAL DEEP SEABED TREATY.—For purposes of this section, the term "international deep seabed treaty" has the meaning given to such term by section 4498(b) of the Internal Revenue Code of 1954.

Ante, p. 584.

30 USC 1473.

SEC. 404. ACT NOT TO AFFECT TAX OR CUSTOMS OR TARIFF TREATMENT OF DEEP SEABED MINING.

Except as otherwise provided in section 402, nothing in this Act shall affect the application of the Internal Revenue Code of 1954. Nothing in this Act shall affect the application of the customs or tariff laws of the United States.

Approved June 28, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 96-411, Pt. I (Comm. on Interior and Insular Affairs), Pt. 2 (Comm. on Merchant Marine and Fisheries), Pt. 3 (Comm. on Ways and Means), and Pt. IV (Comm. on Foreign Affairs).

SENATE REPORTS: No. 96-307 (Comm. on Energy and Natural Resources; Comm. on Commerce, Science, and Transportation; and Comm. on Foreign Relations), No. 96-357 (Comm. on Finance), and No. 96-360 (Comm. on Environment and Public Works), all accompanying S. 493.

CONGRESSIONAL RECORD:
Vol. 125 (1979): Dec. 14, S. 493 considered and passed Senate.
Vol. 126 (1980): June 9, H.R. 2759 considered and passed House.
June 23, considered and passed Senate, amended.
June 25, House concurred in Senate amendments.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:
Vol. 16, No. 27 (1980): July 3, Presidential statement.

Public Law 96-284
96th Congress

An Act

To amend chapter 5 of title 37, United States Code, to revise the special pay provisions for medical officers in the uniformed services and to extend the special pay provisions for other health professionals in the uniformed services, and for other purposes.

June 28, 1980
[S. 2460]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Uniformed Services Health Professionals Special Pay Act of 1980.
37 USC 101 note.

SHORT TITLE

SECTION 1. This Act may be cited as the "Uniformed Services Health Professionals Special Pay Act of 1980".

REVISION OF SPECIAL PAY FOR MEDICAL OFFICERS OF THE ARMED FORCES

SEC. 2. (a) Section 302 of title 37, United States Code, relating to special pay for medical officers of the uniformed services, is amended to read as follows:

"§ 302. Special pay: medical officers of the armed forces

"(a)(1) An officer who is an officer of the Medical Corps of the Army or the Navy or an officer of the Air Force designated as a medical officer and who is on active duty under a call or order to active duty for a period of not less than one year is entitled to special pay in accordance with this subsection.

"(2) An officer described in paragraph (1) of this subsection who is serving in a pay grade below pay grade O-7 is entitled to variable special pay at the following rates:

"(A) $1,200 per year, if the officer is undergoing medical internship training.

"(B) $5,000 per year, if the officer has less than six years of creditable service and is not undergoing medical internship training.

"(C) $10,000 per year, if the officer has at least six but less than eight years of creditable service.

"(D) $9,500 per year, if the officer has at least eight but less than ten years of creditable service.

"(E) $9,000 per year, if the officer has at least ten but less than twelve years of creditable service.

"(F) $8,000 per year, if the officer has at least twelve but less than fourteen years of creditable service.

"(G) $7,000 per year, if the officer has at least fourteen but less than eighteen years of creditable service.

"(H) $6,000 per year, if the officer has at least eighteen but less than twenty-two years of creditable service.

"(I) $5,000 per year, if the officer has twenty-two or more years of creditable service.

"(3) An officer described in paragraph (1) of this subsection who is serving in a pay grade above pay grade O-6 is entitled to variable special pay at the rate of $1,000 per year.

"(4)(A) Subject to subsection (c) of this section, an officer entitled to variable special pay under paragraph (2) or (3) of this subsection who has less than ten years of creditable service is entitled to additional special pay of $9,000 for any twelve-month period during which the officer is not undergoing medical internship or initial residency training.

"(B) Subject to subsection (c) of this section, an officer entitled to variable special pay under paragraph (2) or (3) of this subsection who has ten or more years of creditable service is entitled to additional special pay of $10,000 for any twelve-month period during which the officer is not undergoing medical internship or initial residency training.

"(5) An officer who is entitled to variable special pay under paragraph (2) or (3) of this subsection and who is board certified is entitled to additional special pay at the following rates:

"(A) $2,000 per year, if the officer has less than ten years of creditable service.

"(B) $2,500 per year, if the officer has at least ten but less than twelve years of creditable service.

"(C) $3,000 per year, if the officer has at least twelve but less than fourteen years of creditable service.

"(D) $4,000 per year, if the officer has at least fourteen but less than eighteen years of creditable service.

"(E) $5,000 per year, if the officer has eighteen or more years of creditable service.

"(b)(1) Subject to subsection (c) of this section and paragraph (2) of this subsection and under regulations prescribed under section 303a(a) of this title, an officer who is entitled to variable special pay under subsection (a)(2) of this section may be paid incentive special pay in an amount not to exceed $8,000 for any twelve-month period during which the officer is not undergoing medical internship or initial residency training.

Post, p. 592.

"(2) An officer is not eligible for incentive special pay under paragraph (1) of this subsection unless the Secretary concerned has determined that such officer is qualified in the medical profession.

"(3) The amount that may be paid for incentive special pay under this subsection in any fiscal year may not exceed an amount equal to 6 percent of the total amount paid in such year for special pay under subsection (a) of this section and paragraph (1) of this subsection.

"(c)(1) An officer may not be paid additional special pay under subsection (a)(4) of this section or incentive special pay under subsection (b) of this section for any twelve-month period unless the officer first executes a written agreement under which the officer agrees to remain on active duty for a period of not less than one year beginning on the date the officer accepts the award of such special pay.

Entitlement termination.

"(2) Under regulations prescribed by the Secretary of Defense under section 303a(a) of this title, the Secretary of the military department concerned may terminate at any time an officer's entitlement to the special pay authorized by subsection (a)(4) or (b)(1) of this section. If such entitlement is terminated, the officer concerned is entitled to be paid such special pay only for the part of the period of active duty that he served, and he may be required to refund any amount in excess of that entitlement.

"(d) Regulations prescribed by the Secretary of Defense under section 303a(a) of this title shall include standards for determining— Determination standards.

"(1) whether an officer is undergoing medical internship or initial residency training for purposes of subsections (a)(2)(A), (a)(2)(B), (a)(4), and (b)(1) of this section; and

"(2) whether an officer is board certified for purposes of subsection (a)(5) of this section.

"(e) Special pay payable to an officer under paragraphs (2), (3), and (5) of subsection (a) of this section shall be paid monthly. Special pay payable to an officer under subsection (a)(4) or (b)(1) of this section shall be paid annually at the beginning of the twelve-month period for which the officer is entitled to such payment.

"(f) An officer who voluntarily terminates service on active duty before the end of the period for which a payment was made to such officer under subsection (a)(4) or (b)(1) of this section shall refund to the United States an amount which bears the same ratio to the amount paid to such officer as the unserved part of such period bears to the total period for which the payment was made.

"(g) For purposes of this section, creditable service of an officer is computed by adding— Creditable services, computation.

"(1) all periods which the officer spent in medical internship or residency training during which the officer was not on active duty; and

"(2) all periods of active service in the Medical Corps of the Army or Navy, as an officer of the Air Force designated as a medical officer, or as a medical officer of the Public Health Service.".

(b) The item relating to such section in the table of sections at the beginning of chapter 5 of such title is amended to read as follows:

"302. Special pay: medical officers of the armed forces.".

REVISION OF SPECIAL PAY FOR MEDICAL OFFICERS OF THE PUBLIC HEALTH SERVICE

SEC. 3. (a)(1) Chapter 5 of such title is amended by inserting after section 302b the following new section:

"§ 302c. Special pay: medical officers of the Public Health Service 37 USC 302c.

"(a) A medical officer of the Public Health Service who is on active duty for a period of at least one year is entitled to special pay at the following rates:

"(1) $100 a month for each month of active duty if the officer has not completed two years of active duty as an officer of the Medical Corps of the Army or Navy, as an officer of the Air Force designated as a medical officer, or as a medical officer of the Public Health Service.

"(2) $350 a month for each month of active duty if the officer has completed at least two years of active duty as an officer of the Medical Corps of the Army or Navy, as an officer of the Air Force designated as a medical officer, or as a medical officer of the Public Health Service.

"(b)(1) Subject to subsection (c) of this section and paragraph (2) of this subsection and under regulations prescribed under section 303a(a) of this title, an officer who is entitled to special pay under subsection (a) of this section and who is serving in a pay grade below pay grade O-7 may be paid incentive special pay in an amount not to

Post, p. 592.

exceed $8,000 for any twelve-month period during which the officer is not undergoing medical internship or initial residency training.

"(2) An officer is not eligible for incentive special pay under paragraph (1) of this subsection unless the Secretary of Health and Human Services has determined that such officer is qualified in the medical profession.

"(3) The amount that may be paid for incentive special pay under this subsection in any fiscal year may not exceed 6 percent of the total amount paid in such year for special pay under section 311 of this title for medical officers of the Public Health Service, for special pay under section 313 of this title, and for special pay under this section.

37 USC 311.

37 USC 313.

"(c)(1) An officer may not be paid incentive special pay under subsection (b) of this section for any twelve-month period unless the officer first executes a written agreement under which the officer agrees to remain on active duty for a period of not less than one year beginning on the date the officer accepts the award of such special pay.

Entitlement termination.

Post, p. 592.

"(2) Under regulations prescribed under section 303a(a) of this title, the Secretary of Health and Human Services may terminate at any time an officer's entitlement to the special pay authorized by subsection (b) of this section. If such entitlement is terminated, the officer concerned is entitled to be paid such special pay only for the part of the period of active duty that he served, and he may be required to refund any amount in excess of that entitlement.

"(d) Regulations prescribed by the Secretary of Health and Human Services under section 303a(a) of this title shall include standards for determining whether an officer is undergoing medical internship or initial residency training for purposes of subsection (b) of this section.

"(e) Special pay payable to an officer under subsection (b) of this section shall be paid annually at the beginning of the twelve-month period for which the officer is entitled to such payment.

"(f) An officer who voluntarily terminates service on active duty before the end of the period for which a payment was made to such officer under subsection (b) of this section shall refund to the United States an amount which bears the same ratio to the amount paid to such officer as the unserved part of such period bears to the total period for which the payment was made.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 302b the following new item:

"302c. Special pay: medical officers of the Public Health Service.".

37 USC 313.

(b)(1) Subsection (a) of section 313 of such title, relating to special pay for medical officers who execute active duty agreements, is amended—

(A) by striking out "Secretary of Defense" and all that follows in such subsection through "Public Health Service," and inserting in lieu thereof "Secretary of Health and Human Services (hereinafter in this section referred to as the 'Secretary') and approved by the President, a medical officer of the Public Health Service"; and

(B) by striking out "Secretary concerned" each place it appears in such subsection and inserting in lieu thereof "Secretary".

(2) Subsection (b) of such section is amended by striking out "Secretary of Defense, the Secretary concerned" and inserting in lieu thereof "Secretary, the Secretary".

(3) Subsection (c) of such section is amended by striking out "by the Secretary of Defense or by the Secretary of Health, Education, and

Welfare, as appropriate," and inserting in lieu thereof "by the Secretary,".

(4) Subsection (e) of such section is amended—

(A) by striking out "The Secretary" and all that follows in such subsection through "each year" the first place it appears and inserting in lieu thereof "Not later than July 31 of each year, the Secretary shall submit a written report"; and

(B) by striking out the third sentence in such subsection.

(5) The heading of such section is amended to read as follows:

"§ 313. Special pay: medical officers of the Public Health Service who execute active duty agreements".

(6) The item relating to such section in the table of sections at the beginning of chapter 5 of such title is amended to read as follows:

"313. Special pay: medical officers of the Public Health Service who execute active duty agreements.".

PERMANENT AUTHORITY FOR OTHER SPECIAL PAY PROVISIONS FOR HEALTH PROFESSIONALS IN THE UNIFORMED SERVICES

SEC. 4. (a) Section 302a of title 37, United States Code, relating to special pay for optometrists, is amended—

(1) by striking out "(a) In addition to any other basic pay, special pay, incentive pay, or allowances to which he is entitled, each" in subsection (a) and inserting in lieu thereof "Each";

(2) by striking out "beginning on or after October 1, 1977"; and

(3) by striking out subsections (b) and (c).

(b) Section 302b of such title, relating to special pay for dentists, is amended— 37 USC 302b.

(1) by striking out ", in addition to any other pay or allowances to which he is entitled,"; and

(2) by striking out the last sentence of such section.

(c) Section 303 of such title, relating to special pay for veterinarians, is amended— 37 USC 303.

(1) by striking out "(a) In addition to any other basic pay, special pay, incentive pay or allowances to which he is entitled, each" in subsection (a) and inserting in lieu thereof "Each";

(2) by striking out "beginning on or after October 1, 1977"; and

(3) by striking out subsections (b) and (c).

(d)(1) Subsection (a) of section 311 of such title, relating to continuation pay for physicians and dentists who extend their service on active duty, is amended to read as follows: 37 USC 311.

"(a)(1) Under regulations to be prescribed by the Secretary of Defense, an officer of the Army or Navy in the Dental Corps or an officer of the Air Force who is designated as a dental officer who— Active duty agreement.

"(A) is serving on active duty in a critical specialty designated by the Secretary of Defense;

"(B) has completed his initial active-duty obligation; and

"(C) executes a written agreement to remain on active duty for at least one additional year;

may be paid not more than four months' basic pay (under the rates of basic pay in effect on April 1, 1980) when he executes that agreement for each additional year that he agrees to remain on active duty. The eligibility of an officer for special pay under the preceding sentence, and the method of computing the amount of such special pay, shall be determined in accordance with the provisions of the regulations of the Secretary of Defense which on April 1, 1980, determined the

eligibility for and method of computation of such special pay, except that in computing the amount of such special pay, the rates of basic pay to be applied are the rates of basic pay in effect on April 1, 1980.

"(2) Under regulations to be prescribed by the Secretary of Health and Human Services, a medical officer of the Public Health Service above the pay grade of O-6 or such an officer who is below that pay grade who is undergoing initial residency training and who was on active duty on July 1, 1974, or a dental officer of the Public Health Service who—

"(A) is serving on active duty in a critical specialty designated by the Secretary of Health and Human Services;

"(B) has completed his initial active-duty obligation; and

"(C) executes a written agreement to remain on active duty for at least one additional year;

may be paid not more than four months' basic pay at the rate applicable to him when he executes that agreement for each additional year that he agrees to remain on active duty.

"(3) Pay under this section shall be paid in equal annual or semiannual installments as determined by the Secretary of Defense or the Secretary of Health and Human Services, as appropriate, in each additional year covered by an agreement to remain on active duty. However, in meritorious cases, the pay may be paid in fewer installments if the Secretary determines it to be in the best interest of the officer.".

(2) Subsection (c) of such section is amended by striking out "beginning with the calendar year 1968,".

(3) The heading of such section is amended to read as follows:

"§ 311. Special pay: continuation pay for dentists in the armed forces and physicians and dentists in the Public Health Service".

(4) The item relating to such section in the table of sections at the beginning of chapter 5 of such title is amended to read as follows:

"311. Special pay: continuation pay for dentists in the armed forces and physicians and dentists in the Public Health Service.".

Repeal.

(e) Section 2 of the Act entitled "An Act to amend chapter 5 of title 37, United States Code, to revise the special pay structure relating to medical officers of the uniformed services", approved May 6, 1974 (37 U.S.C. 302 note), is repealed.

GENERAL PROVISIONS RELATING TO HEALTH PROFESSIONALS

SEC. 5. (a) Chapter 5 of title 37, United States Code, is amended by inserting after section 303 the following new section:

37 USC 303a.

"§ 303a. Special pay: health professionals; general provisions

Administrative regulations.

"(a) The Secretary of Defense, with respect to the Army, Navy, and Air Force, and the Secretary of Health and Human Services, with respect to the Public Health Service, shall prescribe regulations for the administration of sections 302, 302a, 302b, 302c, 303, 311, and 313 of this title.

37 USC 302–302c, 303, 311, 313.

"(b) Special pay authorized under sections 302, 302a, 302b, 302c, and 303 of this title is in addition to any other pay or allowance to which an officer is entitled. The amount of special pay to which an officer is entitled under any of such sections may not be included in computing the amount of any increase in pay authorized by any other

provision of this title or in computing retired pay, severance pay, or readjustment pay.

"(c) The Secretary of Defense shall conduct a review every two years of the special pay for health professionals authorized by sections 302, 302a, 302b, 303, and 311 of this title. A report shall be submitted to the Congress not later than September 30, 1982, of the results of the first such review, and a report shall be submitted to the Congress not later than September 30 of each second year thereafter on the results of the review for the preceding two-year period.". Review. 37 USC 302-302b, 303, 311. Report to Congress.

(b) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 303 the following new item:

"303a. Special pay: health professionals; general provisions.".

TECHNICAL AMENDMENT

SEC. 6. Section 306(e) of title 37, United States Code, relating to exclusions from special pay for officers holding positions of unusual responsibility, is amended by striking out "302 or 303" and inserting in lieu thereof "302, 302a, 302b, or 303".

TRANSITION PROVISIONS

SEC. 7. Notwithstanding any provision of the amendments made by this Act, and in accordance with regulations to be prescribed by the Secretary of Defense, any officer of the Army, Navy, or Air Force who at any time before the effective date of the amendments made by this Act was entitled to special pay under section 302 of title 37, United States Code, and any officer who after such effective date would have become entitled to special pay under such section (as in effect on the day before such effective date) had such section continued in effect, shall be paid basic pay and special pay under section 302 of such title (as in effect on and after the effective date of the amendments made by this Act) in a total amount not less than the total amount of the basic pay (as in effect on the day before such date) and special pay applicable (or which would have been applicable) to such officer under sections 302, 311, and 313 of such title (as in effect on the day before such date and computed on the rates of basic pay as in effect on the day before such date). 37 USC 302 note. 37 USC 302, 311, 313.

EFFECTIVE DATE

37 USC 302 note.

SEC. 8. The amendments made by sections 2 and 3 shall apply to special pay payable for periods beginning after the last day of the month in which this Act is enacted.

Approved June 28, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-904 accompanyng H.R. 6982 (Comm. on Armed Services).
SENATE REPORT No. 96-749 (Comm. on Armed Services).
CONGRESSIONAL RECORD, Vol. 126 (1980):
May 28, considered and passed Senate.
June 23, H.R. 6982 considered and passed House; passage vacated and S. 2460, amended, passed in lieu.
June 26, Senate concurred in House amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, VOL. 16, No. 27:
June 30, Presidential statement.

Public Law 96-285
96th Congress

An Act

To establish the Tensas River National Wildlife Refuge.

June 28, 1980
[H.R. 6022]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Tensas River National Wildlife Refuge, establishment.

16 USC 668dd note.

CONGRESSIONAL FINDINGS

SECTION 1. The Congress finds that—

(1) the great forests of hardwoods, which once covered vast acreages along the lower reach of the Mississippi River Valley, are rapidly being destroyed;

(2) the remaining forests constitute a unique ecological, commercial, and recreational resource, providing a combination of forest products, habitat for a diversity of fish and wildlife, and opportunities to the public for scientific research and for recreational activities such as hunting, fishing, hiking, boating, and wildlife observation;

(3) the area within which the Tensas River National Wildlife Refuge will be located contains one of the largest tracts of such forests in the Mississippi River Valley; and

(4) establishment of the refuge represents a significant action by the Federal Government for the preservation and development of the environmental resources in the basins of the Tensas, Bouef, and Red Rivers of the State of Louisiana.

DEFINITIONS

SEC. 2. As used in this Act—

(1) the term "refuge" means the Tensas River National Wildlife Refuge that includes those lands and waters, and interests therein, located along the Tensas River in Franklin, Madison, and Tensas Parishes, Louisiana, that are depicted on the map entitled "Tensas River National Wildlife Refuge", dated February 1980, and on file at the United States Fish and Wildlife Service.

(2) The term "Secretary" means the Secretary of the Interior.

ESTABLISHMENT OF REFUGE

SEC. 3. (a) ACQUISITION.—Within four years after the date of the enactment of this Act—

(1) the Secretary shall acquire lands and waters, and interests therein, referred to in section 2(1) through donation, purchase with donated or appropriated funds, or exchange, or through any combination of the foregoing; and

(2) the Secretary of the Army shall acquire such of those lands and waters, and interests therein, referred to in section 2(1) as are not acquired under paragraph (1).

The Secretary of the Army shall transfer to the Secretary jurisdiction over all lands and waters, and interests therein, acquired under paragraph (2) and the Secretary shall include all such lands, waters, and interests in the refuge. The Secretary and the Secretary of the Army may only enter into contracts or incur obligations to purchase lands and waters, and interests therein with appropriated funds to the extent budget authority has been provided in advance in appropriation Acts.

Publication in Federal Register.

(b) ESTABLISHMENT.—At such time as sufficient lands and waters, and interests therein, have been acquired under subsection (a) (1) and (2) to constitute an area that can be administered for refuge purposes, the Secretary shall establish the Tensas River National Wildlife Refuge by publication of notice to that effect in the Federal Register.

(c) ADJUSTMENTS.—The Secretary may make such minor adjustments with respect to the boundary of the refuge as may be necessary to facilitate the acquisition of lands and waters, and interests therein, for the refuge and to facilitate the administration of the refuge.

(d) ARMY ACQUISITIONS IN LIEU OF CERTAIN OTHER MITIGATION ACTIONS.—The land and waters and interests therein, which the Secretary of the Army is required to acquire under subsection (a)(2) of this section, shall when acquired in total be in lieu of and in satisfaction of the mitigation acquisitions which otherwise would be required for the following Corps of Engineers water resources projects and modifications thereof: the Tensas River project, the Tensas-Cocodrie Pumping Plant, the Sicily Island Levee, the Bushley Bayou Levee, the Below Red River Levee, and that portion of the Red River Waterway Project below River Mile 104. Should any of these projects not be authorized or implemented, the Secretary of the Army, in consultation with the Secretary, may substitute additional projects with similar mitigation requirements which may be authorized for construction in the future and which are located wholly within the State of Louisiana and within the area depicted on the Corps of Engineers map entitled "Tensas National Wildlife Refuge Mitigation Area" dated April 1980 and on file in the Office of the Chief of Engineers, which mitigation area includes the basins of the Tensas, Bouef, Ouachita and Black Rivers and the Red River basin below River Mile 104.

ADMINISTRATION

SEC. 4. (a) IN GENERAL.—The Secretary shall administer all lands and waters, and interests therein, acquired under this Act in accordance with the provisions of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd-668ee) to conserve the diversity of fish and wildlife and their habitat within the refuge; except that the Secretary may utilize such additional statutory authority as may be available to him for the conservation and development of wildlife and natural resources, the development of outdoor recreation opportunities, and interpretative education, as he deems appropriate to carry out the purposes of the refuge. The Secretary shall give special consideration to the management of the timber on the refuge to insure continued commercial production and harvest compatible with the purposes for which the refuge is established and the needs of fish and wildlife which depend upon a dynamic and diversified hardwood forest.

Timber management.

(b) FLOOD CONTROL.—The Secretary shall administer the refuge as part of an overall Federal management plan for the use of water and related land resources for the area. This Act shall not preclude the

construction and maintenance of the Tensas River flood control project, authorized by the Flood Control Act of 1944, as amended, in such modified configuration as may be determined by the Secretary of the Army, in consultation with the Secretary. The Secretary shall assist the Secretary of the Army in this flood control project, including the provision of all lands and rights-of-ways necessary for project construction and maintenance within the refuge area as determined by the Secretary of the Army, in consultation with the Secretary. The establishment of the refuge shall not preclude any other public or private works, determined to be in the public interest, to relieve flooding along or adjacent to the Tensas River. 58 Stat. 887.

AUTHORIZATION OF APPROPRIATIONS

SEC. 5. For the purposes of carrying out this Act, there are authorized to be appropriated, beginning October 1, 1980—

(1) not to exceed $10,000,000 to the Department of the Interior; to remain available until September 30, 1985, and

(2) not to exceed $40,000,000 to the Department of the Army, to remain available until September 30, 1985.

Approved June 28, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-891 (Comm. on Merchant Marine and Fisheries).
SENATE REPORT No. 96-741 accompanying S. 2244 (Comm. on Environment and Public Works).
CONGRESSIONAL RECORD, Vol. 126 (1980):
May 5, considered and passed House.
May 22, considered and passed Senate, amended, in lieu of S. 2244.
June 16, House concurred in Senate amendment.

Public Law 96-286
96th Congress

Joint Resolution

June 28, 1980
[H.J. Res. 569]

To provide for a temporary increase in the public debt limit.

Public debt limit, temporary increase.
31 USC 757b note.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, **During the period beginning on the date of the enactment of this Act and ending on February 28, 1981, the public debt limit set forth in the first sentence of section 21 of the Second Liberty Bond Act (31 U.S.C. 757b) shall be temporarily increased by $525,000,000,000.**

Approved June 28, 1980.

LEGISLATIVE HISTORY:

CONGRESSIONAL RECORD, Vol. 126 (1980):
June 13 considered and passed House.
June 26, considered and passed Senate.

Public Law 96-287
96th Congress

An Act

To establish the Biscayne National Park, to improve the administration of the Fort Jefferson National Monument, to enlarge the Valley Forge National Historical Park, and for other purposes.

June 28, 1980
[H.R. 5926]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—BISCAYNE NATIONAL PARK

Biscayne National Park. Establishment.

SEC. 101. In order to preserve and protect for the education, inspiration, recreation, and enjoyment of present and future generations a rare combination of terrestrial, marine, and amphibious life in a tropical setting of great natural beauty, there is hereby established the Biscayne National Park (hereinafter referred to in this title as the "park") in the State of Florida. The boundary of the park shall include the lands, waters, and interests therein as generally depicted on the map entitled "Boundary Map, Biscayne National Park", numbered 169-90,003, and dated April 1980, which map shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior. The Secretary of the Interior (hereinafter referred to as the "Secretary") shall publish in the Federal Register, not more than one year after the date of enactment of this Act, a detailed description of the boundary established pursuant to this section. Following reasonable notice in writing to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate of his intention to do so, the Secretary may make minor revisions in the boundary of the park by publication of a revised boundary map or other description in the Federal Register.

16 USC 410gg.

Boundary map, availability for public inspection.

Boundary description, publication in Federal Register.

Minor boundary revisions, notice to congressional committees and publication in Federal Register.

SEC. 102. (a) Within the boundary of the park the Secretary is authorized to acquire lands, waters, and interests therein by donation, purchase with donated or appropriated funds, or exchange, except that property owned by the State of Florida or any political subdivision thereof may be acquired only by donation, and subject to such reservations and restrictions as may be provided by Florida law. Lands, waters, and interests therein within such boundary which are owned by the United States and under the control of the Secretary are hereby transferred to the administrative jurisdiction of the National Park Service to be managed for the purposes of the park. Any federally owned lands within the park which are not under the control of the Secretary shall be transferred to his control for purposes of the park at such time as said lands cease to be needed by the agencies which currently control them.

Property acquisition; donation by Florida. 16 USC 410gg-1.

U.S. property, transfer to National Park Service.

(b) It is the express intent of the Congress that the Secretary shall substantially complete the land acquisition program authorized herein within three complete fiscal years from the effective date of this Act. Any owner of property within the park may notify the

Time limitation on land acquisition.

Notification to Secretary.

Secretary of the desire of such owner that his property be promptly acquired, and the Secretary shall give immediate and careful consideration, subject to the availability of funds, to the prompt acquisition of such property.

Preservation and administration. 16 USC 410gg-2. Fishing.

SEC. 103. (a) The Secretary shall preserve and administer the park in accordance with the provisions of the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1-4), as amended and supplemented. The waters within the park shall continue to be open to fishing in conformity with the laws of the State of Florida except as the Secretary, after consultation with appropriate officials of said State, designates species for which, areas and times within which, and methods by which fishing is prohibited, limited, or otherwise regulated in the interest of sound conservation to achieve the purposes for which the park is established: *Provided,* That with respect to lands donated by the State after the effective date of this Act, fishing shall be in conformance with State law.

Biscayne National Monument, abolition.

(b) The Biscayne National Monument, as authorized by the Act of October 18, 1968 (82 Stat. 1188; 16 U.S.C. 450qq), as amended, is abolished as such, and all lands, waters, and interests therein acquired or reserved for such monument are hereby incorporated within and made a part of the park. Any funds available for the purposes of such monument are hereby made available for the purposes of the park, and authorizations of funds for the monument shall continue to be available for the park.

Designation of wilderness areas, report to President and Congress. 16 USC 410gg-3. 16 USC 1132.

SEC. 104. Within three complete fiscal years from the effective date of this Act, the Secretary shall review the area within the park and shall report to the President and the Congress, in accordance with subsections 3 (c) and (d) of the Wilderness Act (78 Stat. 890), his recommendations as to the suitability or nonsuitability of any area within the park for designation as wilderness. Any designation of any such areas as wilderness shall be accomplished in accordance with said subsections of the Wilderness Act.

Management plan, submittal to congressional committees. 16 USC 410gg-4.

SEC. 105. Within two complete fiscal years from the effective date of this Act, the Secretary shall submit to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate, a revised comprehensive general management plan for the park consistent with the provisions of this title and pursuant to the provisions of section 12(b) of the Act of August 18, 1970 (84 Stat. 825), as amended (16 U.S.C. 1a-1 et seq.).

16 USC 1a-7.

Appropriation authorization. 16 USC 410gg-5.

SEC. 106. In addition to the sums previously authorized to be appropriated for Biscayne National Monument, there are authorized to be appropriated such sums as may be necessary for the administration of the park, and not to exceed $8,500,000 for the acquisition of lands and interests therein, as provided in this title. Notwithstanding any other provision of law, no fees shall be charged for entrance or admission to the park.

TITLE II—FORT JEFFERSON NATIONAL MONUMENT

Findings and establishment.

SEC. 201. The Congress recognizes the need for stabilizing and protecting the masonry fortifications at Fort Jefferson and for protecting and interpreting a pristine natural environment including the entire Dry Tortugas group of islands and their associated marine environments, significant coral formations, fish and other marine animal populations, and populations of nesting and migrating birds, all of which are located within Fort Jefferson National Monument,

Florida (hereinafter referred to in this title as the "monument"). The monument shall consist of the lands, waters, and interests therein generally depicted on a map entitled "Boundary Map, Fort Jefferson National Monument", numbered 364-90,001, and dated April 1980. Any Federal lands excluded from the Fort Jefferson National Monument pursuant to this section shall be administered by the Secretary in accordance with the Federal Land Policy and Management Act of 1976. Any Federal lands added to the Fort Jefferson National Monument pursuant to this section shall be administered by the Secretary in accordance with the purposes for which the monument was established. In furtherance of the purposes of the monument the Secretary of the Interior (hereinafter referred to as the "Secretary") is authorized to accept gifts of funds which may be donated for any purpose, but particularly for stabilizing the historic structures within the monument.

Boundary map.

Excluded Federal lands.

43 USC 1701 note.
Added Federal lands.
Gifts of funds.

SEC. 202. Within three complete fiscal years from the effective date of this Act, the Secretary shall, after consultation with the Governor of the State of Florida, develop and transmit to the Committee on Interior and Insular Affairs of the United States House of Representatives and to the Committee on Energy and Natural Resources of the United States Senate a comprehensive general management plan for the monument consistent with the provisions of this title and pursuant to the provisions of section 12(b) of the Act of August 18, 1970 (84 Stat. 825), as amended (16 U.S.C. 1a-1 et seq.).

Management plan, submittal to congressional committees.

16 USC 1a-7.

SEC. 203. Within three complete fiscal years from the effective date of this Act, the Secretary shall review the area within the monument and shall report to the President and the Congress, in accordance with subsections 3 (c) and (d) of the Wilderness Act (78 Stat. 890), his recommendations as to the suitability or nonsuitability of any area within the monument for designation as wilderness. Any designation of any such areas as wilderness shall be accomplished in accordance with said subsections of the Wilderness Act.

Designation of wilderness areas, report to President and Congress.
16 USC 1132.

SEC. 204. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this title. Notwithstanding any other provisions of law, no fees shall be charged for entrance or admission to the monument.

Appropriation authorization.
Entrance fees, prohibition.

TITLE III—VALLEY FORGE NATIONAL HISTORICAL PARK

SEC. 301. The Act entitled "An Act to authorize the Secretary of the Interior to establish the Valley Forge National Historical Park in the Commonwealth of Pennsylvania, and for other purposes", approved July 4, 1976 (90 Stat. 796), is amended (1) in subsection 2(a) by changing "dated February 1976, and numbered VF-91,000," to "dated June 1979, and numbered VF-91,001,"; (2) in section 3 by adding the following sentence at the end thereof: "In furtherance of the purposes of this Act, the Secretary is authorized to provide technical assistance to public and private nonprofit entities in qualifying for appropriate historical designation and for such grants, other financial assistance, and other forms of aid as are available under Federal, State, or local law for the protection, rehabilitation, or preservation of properties in the vicinity of the park which are historically related to the purposes of the park."; and (3) in subsection 4(a) by changing "$8,622,000" to "$13,895,000".

16 USC 410aa-1.

16 USC 410aa-2.
Technical assistance to grant applicants.

16 USC 400aa-3.

TITLE IV

Effective date.
16 USC 410gg-5 note.

SEC. 401. Authorizations of moneys to be appropriated under this Act shall be effective on October 1, 1980. Notwithstanding any other provision of this Act, authority to enter into contracts, to incur obligations, or to make payments under this Act shall be effective only to the extent, and in such amounts, as are provided in advance in appropriation Acts.

Approved June 28, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-693 (Comm. on Interior and Insular Affairs).
SENATE REPORT No. 96-665 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 125 (1979): Dec. 10, considered and passed House.
Vol. 126 (1980): June 5, considered and passed Senate, amended.
June 17, House concurred in Senate amendments.

Public Law 96-288
96th Congress

An Act

To establish the Bogue Chitto National Wildlife Refuge.

June 28, 1980
[H.R. 6169]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Bogue Chitto National Wildlife Refuge, establishment.

16 USC 668dd note.

DECLARATION OF FINDINGS AND PURPOSE

SECTION 1. (a) The Congress finds that—

(1) thousands of acres of bottomland hardwoods are being cleared each year in the Mississippi River Delta;

(2) these forested wetlands represent one of the most valuable and productive wildlife habitat types in the United States and have extremely high recreational value for hunters, fishermen, birdwatchers, nature photographers, and others; and

(3) the Bogue Chitto area is a bottomland hardwood swamp which harbors over one hundred fifty species of birds and many types of other wildlife, including several species imperiled with extinction.

(b) The purpose of this Act is to establish the Bogue Chitto National Wildlife Refuge.

DEFINITIONS

SEC. 2. For purposes of this Act—

(1) the term "refuge" means the Bogue Chitto National Wildlife Refuge;

(2) the term "Secretary" means the Secretary of the Interior; and

(3) the term "selection area" means those lands and waters near the juncture of the Pearl River and its tributary, the Bogue Chitto, in Saint Tammany and Washington Parishes, Louisiana, and Pearl River County, Mississippi, depicted on the map entitled "Bogue Chitto National Wildlife Refuge, Selection Area", dated and on file at the United States Fish and Wildlife Service.

ESTABLISHMENT OF REFUGE

SEC. 3. (a)(1) Within one year after the date of the enactment of this Act the Secretary shall—

(A) designate approximately forty thousand acres of land and water within the selection area as land which the Secretary considers appropriate for the refuge; and

(B) publish in the Federal Register a detailed map depicting the boundaries of the land designated under subparagraph (A), which map shall be on file and available for public inspection at offices of the United States Fish and Wildlife Service.

Publication in Federal Register.

(2) The Secretary may make such minor revisions in the boundaries designated under paragraph (1)(B) of this subsection as may be

appropriate to carry out the purpose of this Act or to facilitate the acquisition of property within the refuge.

(b) The Secretary is authorized to acquire (by donation, purchase with donated or appropriated funds, or exchange) lands, waters, or interests therein, within the boundaries designated under subsection (a)(1)(B).

Establishment, publication in Federal Register.

(c) The Secretary shall establish the Bogue Chitto National Wildlife Refuge, by publication of a notice to that effect in the Federal Register, whenever sufficient property has been acquired under this section to constitute an area that can be effectively managed as a refuge.

ADMINISTRATION

SEC. 4. The Secretary shall administer all lands, waters, and interests therein, acquired under this Act in accordance with the provisions of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd-668ee). The Secretary may utilize such additional statutory authority as may be available to him for the conservation and development of wildlife and natural resources, the development of outdoor recreation opportunities, and interpretive education as he deems appropriate to carry out the purposes of this Act.

AUTHORIZATION OF APPROPRIATIONS

SEC. 5. There are authorized to be appropriated beginning October 1, 1980—

(a) $13,000,000 for the acquisition of lands and interests therein, to remain available until September 30, 1985.

(b) $1,000,000 for construction of the refuge headquarters and boat launching facilities and the accomplishment of boundary surveys, to remain available until September 30, 1985.

Approved June 28, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-892 (Comm. on Merchant Marine and Fisheries).
SENATE REPORT No. 96-674 accompanying S. 2115 (Comm. on Environment and Public Works).
CONGRESSIONAL RECORD, Vol. 126 (1980):
May 5, considered and passed House.
May 13, considered and passed Senate, amended, in lieu of S. 2115.
June 16, House concurred in Senate amendment.

Public Law 96-289
96th Congress

An Act

To authorize appropriations to carry out the national sea grant program for fiscal years 1981, 1982, and 1983, and for other purposes.

June 28, 1980
[H.R. 6614]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the National Sea Grant College Program Act (33 U.S.C. 1121 et seq.), as amended, is further amended—

National sea grant program, appropriation authorization.
33 USC 1121 note.

(1) in section 203(6) by inserting "Great Lakes and the" immediately before "territorial sea";

(2) in section 204(c) by redesignating paragraphs (5) and (6) as paragraphs (6) and (7), respectively, and by inserting immediately after paragraph (4) the following new paragraph:

33 USC 1122.
33 USC 1123.

"(5) encourage cooperation and coordination with other Federal programs concerned with ocean and coastal resource conservation and usage;".

(3) in section 205(d)(2) by inserting "may be applied to the short-term rental of buildings or facilities for meetings which are in direct support of any sea grant program or project and" immediately after "contract" the second time it appears therein;

33 USC 1124.

(4) in section 206(c) by inserting "out" immediately after "carrying", and by inserting the following new paragraph immediately after paragraph (2):

33 USC 1125.

"(3) Not to exceed $5,000,000 for fiscal year 1981, not to exceed $6,000,000 for fiscal year 1982, and not to exceed $7,000,000 for fiscal year 1983.";

(5) in section 209(c)(3) by striking the first two sentences and inserting in lieu thereof the following: "Any individual appointed to a partial or full term may be reappointed for one additional full term."; and

33 USC 1128.

(6) in section 212 by inserting the following new paragraph immediately after paragraph (2):

33 USC 1131.

"(3) Not to exceed $50,000,000 for fiscal year 1981, not to exceed $58,000,000 for fiscal year 1982, and not to exceed $65,000,000 for fiscal year 1983.".

SEC. 2. Section 3(c) of the Sea Grant Program Improvement Act of 1976 (33 U.S.C. 1124a(c)) is amended by inserting the following new paragraph immediately after paragraph (2):

"(3) Not to exceed $5,000,000 for fiscal year 1981, not to exceed $5,000,000 for fiscal year 1982, and not to exceed $5,000,000 for fiscal year 1983.".

SEC. 3. The section heading of section 3 of the Sea Grant Program Improvement Act of 1976 (33 U.S.C. 1124a) is amended to read as follows:

"SEC. 3. SEA GRANT INTERNATIONAL PROGRAM.".

SEC. 4. (a) Notwithstanding the provisions of section 10(c)(1) of the Fishermens Protective Act of 1967 (22 U.S.C. 1980) applications for

Applications for compensation.
22 USC 1980 note.

compensation under such Act, filed within 90 days after the date of enactment of this subsection shall be deemed to be timely filed.

(b) Section 10(c)(1) of the Fishermens Protective Act of 1967 (22 U.S.C. 1980) is amended by striking "sixty" and substituting "90"

Approved June 28, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-841 (Comm. on Merchant Marine and Fisheries).
SENATE REPORT No. 96-723 (Comm. on Commerce, Science, and Transportation and Comm. on Labor and Human Resources).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Apr. 17, considered and passed House.
May 22, considered and passed Senate, amended.
June 5, House concurred in Senate amendment with amendments.
June 9, Senate concurred in House amendments with an amendment.
June 16, House concurred in Senate amendment.

Public Law 96-290
96th Congress

An Act

To authorize appropriations for the San Francisco Bay National Wildlife Refuge, and for other purposes.

June 28, 1980
[H.R. 4887]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

San Francisco Bay National Wildlife Refuge, Calif. Appropriation authorizations.

SECTION 1. (a) That part of section 4 of the Act entitled "An Act to provide for the establishment of the San Francisco Bay National Wildlife Refuge", approved June 30, 1972 (86 Stat. 399; 16 U.S.C. 668ii), that precedes the proviso is amended to read as follows: "The Secretary may acquire lands and waters or interests therein, subject to the interest of the State of California in lands now or formerly flowed by the tide, including the public trust of the State, within the boundaries of the refuge by donation, purchase with donated or appropriated funds, or exchange:".

(b)(1) Section 5 of such Act of June 30, 1972 (16 U.S.C. 668jj) is amended to read as follows:

"SEC. 5. There are authorized to be appropriated not to exceed—

"(1) $13,200,000 for the acquisition of lands and interests therein as authorized by section 4 of this Act, to remain available until the close of September 30, 1983; and

"(2) $11,300,000 to carry out the other provisions of this Act, to remain available until expended.".

(2) The amendment made by subsection (b)(1) shall take effect October 1, 1980.

Effective date.

SEC. 2. Lands and waters and interests therein acquired by the Secretary of the Interior under the authority of the Migratory Bird Conservation Act (16 U.S.C. 718–718h; 48 Stat. 452), as amended, for inclusion in the Humboldt Bay National Wildlife Refuge, may be acquired subject to the interest of the State of California in lands now or formerly flowed by the tide, including the public trust of the State.

Humboldt Bay National Wildlife Refuge, Calif.

Approved June 28, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-677 (Comm. on Merchant Marine and Fisheries).
SENATE REPORT No. 96-672 (Comm. on Environment and Public Works).
CONGRESSIONAL RECORD:
Vol. 125 (1979): Dec. 10, considered and passed House.
Vol. 126 (1980): May 6, considered and passed Senate, amended.
June 16, House concurred in Senate amendments.

79-194 O—81—pt. 1——42 QL3

Public Law 96-291
96th Congress

An Act

June 28, 1980
[H.R. 4889]

To extend the authorization period for the Great Dismal Swamp National Wildlife Refuge.

Great Dismal Swamp National Wildlife Refuge, authorization period extension.
88 Stat. 802.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 4(4) of the Act entitled "An Act to establish the Great Dismal Swamp National Wildlife Refuge" (Public Law 93-402; 88 Stat. 801) is amended by striking the words "September 30, 1980," and inserting in lieu thereof the words "September 30, 1983,".

SEC. 2. The Fish and Wildlife Act of 1956 (70 Stat. 1119), as amended (16 U.S.C. 742a-742d, 742e-742j), is further amended by adding a new section 14 as follows:

Uniform allowance.
16 USC 742j-2.

"SEC. 14. Notwithstanding subsection 5901(a) of title 5, United States Code (80 Stat. 508) as amended, the uniform allowance for each uniformed employee of the United States Fish and Wildlife Service may be up to $400 annually.".

Nothing in this section shall be construed as authorizing the enactment of new budget authority in fiscal year 1980.

Approved June 28, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-660 (Comm. on Merchant Marine and Fisheries).
SENATE REPORT No. 96-673 (Comm. on Environment and Public Works).
CONGRESSIONAL RECORD:
Vol. 125 (1979): Dec. 10, considered and passed House.
Vol. 126 (1980): May 6, considered and passed Senate, amended.
June 16, House concurred in Senate amendment.

Public Law 96-292
96th Congress

An Act

To name a certain Federal building in Santa Fe, New Mexico, the "Joseph M. Montoya Federal Building and U.S. Courthouse".

June 28, 1980
[H.R. 5259]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Federal building located on Federal Place, in Santa Fe, New Mexico, shall hereafter be known as, and is hereby designated as, the "Joseph M. Montoya Federal Building and U.S. Courthouse". Any reference in any law, regulation, document, record, map, or other paper of the United States to such building shall be considered to be a reference to the Joseph M. Montoya Federal Building and U.S. Courthouse.

Joseph M. Montoya Federal Building and U.S. Courthouse, designation.

SEC. 2. Section 181(a)(2) of the Act of October 22, 1976 (Public Law 94-587; 90 Stat. 2939, 2940), is amended by striking out "(A)" and by striking out ", and (B)" and all that follows down through and including the period at the end thereof and inserting in lieu thereof a period.

42 USC 1962d-11a.

Approved June 28, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-523 (Comm. on Public Works and Transportation).
SENATE REPORT No. 96-697 (Comm. on Environment and Public Works).
CONGRESSIONAL RECORD:
Vol. 125 (1979): Nov. 27, considered and passed House.
Vol. 126 (1980): May 16, considered and passed Senate, amended.
June 17, House concurred in Senate amendment.

Public Law 96-293
96th Congress

An Act

June 30, 1980
[H.R. 7685]

To amend title IV of the Employee Retirement Income Security Act of 1974 to postpone for one month the date on which the corporation must pay benefits under terminated multiemployer plans.

Employee Retirement Income Security Act of 1974, amendment.
29 USC 1381.
93 Stat. 70, *ante*, p. 341.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 4082(c) of title IV of the Employee Retirement Income Security Act of 1974 (relating to effective dates; special rules) as amended by Public Law 95-214, Public Law 96-24, and Public Law 96-239 is further amended—

(1) by striking "July 1, 1980" in paragraphs (1), (2), and (4) and substituting "August 1, 1980" in each such paragraph; and

(2) by striking "June 30, 1980" in paragraphs 2(B) and 4(D) and substituting "July 31, 1980" in each such paragraph.

Approved June 30, 1980.

LEGISLATIVE HISTORY:

CONGRESSIONAL RECORD, Vol. 126 (1980):
June 27, considered and passed House.
June 28, considered and passed Senate.

Public Law 96-294
96th Congress

An Act

To extend the Defense Production Act of 1950, and for other purposes.

June 30, 1980
[S. 932]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Energy Security Act".

Energy Security Act.
42 USC 8701 note.

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FINDINGS AND PURPOSE

42 USC 8701.

SEC. 100. (a) The Congress finds and declares that—

(1) the achievement of energy security for the United States is essential to the health of the national economy, the well-being of our citizens, and the maintenance of national security;

(2) dependence on foreign energy resources can be significantly reduced by the production from domestic resources of the equivalent of at least 500,000 barrels of crude oil per day of synthetic fuel by 1987 and of at least 2,000,000 barrels of crude oil per day of synthetic fuel by 1992;

(3) attainment of synthetic fuel production in the United States in a timely manner and in a manner consistent with the protection of the environment will require financial commitments beyond those expected to be forthcoming from nongovernmental capital sources and existing government incentives; and

(4) establishment of an independent Federal entity of limited duration which will provide additional financial assistance in conjunction with private sources of capital to assist the development of domestic nonnuclear energy resources for the production of synthetic fuel will facilitate the expeditious achievement of synthetic fuel production from domestic resources.

(b)(1) The purposes of this title, and the amendments made by this title, are to utilize to the fullest extent the constitutional powers of the Congress to improve the Nation's balance of payments, reduce the threat of economic disruption from oil supply interruptions and increase the Nation's security by reducing its dependence upon imported oil.

(2) Congress finds and declares that these purposes can be served by—

(A) demonstrating at the earliest feasible time the practicality of commercial production of synthetic fuel from domestic resources employing the widest diversity of feasible technologies;

(B) fostering the creation of commercial synthetic fuel production facilities of diverse types with the aggregate capability to produce from domestic resources in an environmentally accept-

able manner the equivalent of at least 500,000 barrels of crude oil per day by 1987 and of at least 2,000,000 barrels of crude oil per day by 1992;

(C) creating the United States Synthetic Fuels Corporation, a Federal entity of limited duration formed to provide financial assistance to undertake synthetic fuel projects;

(D) providing for financial assistance to encourage and assure the flow of capital funds to those sectors of the national economy which are important to the domestic production of synthetic fuel;

(E) encouraging private capital investment and activities in the development of domestic sources of synthetic fuel and to foster competition in the development of the Nation's synthetic fuel resources;

(F) encouraging and supplementing and not competing with or supplanting private capital investments in the development of domestic sources of synthetic fuel;

(G) fostering greater energy security and reducing the Nation's economic vulnerability to disruptions in imported energy supplies; and

(H) giving special consideration to the production of synthetic fuel which has national defense applications and expediting its initial development through the Defense Production Act of 1950. 50 USC app. 2061.

Part A—Development of Synthetic Fuel Under the Defense Production Act of 1950

Defense Production Act Amendments of 1980.

SHORT TITLE

SEC. 101. This part may be cited as the "Defense Production Act Amendments of 1980". 50 USC app. 2061 note.

DECLARATION OF POLICY

SEC. 102. The second sentence of section 2 of the Defense Production Act of 1950 (50 U.S.C. App. 2062) is amended by striking out the period at the end thereof and inserting in lieu thereof "or to respond to actions occurring outside of the United States which could result in the termination or reduction of the availability of strategic and critical materials, including energy, and which would adversely affect the national defense preparedness of the United States. In order to insure the national defense preparedness which is essential to national security, it is also necessary and appropriate to assure domestic energy supplies for national defense needs.".

RESTRICTION ON RATIONING

SEC. 103. Title I of the Defense Production Act of 1950 (50 U.S.C. App. 2071 et seq.) is amended by adding at the end thereof the following:

"SEC. 105. Nothing in this Act shall be construed to authorize the President to institute, without the approval of the Congress, a program for the rationing of gasoline among classes of end-users. 50 USC app. 2075.

"SEC. 106. For purposes of this Act, 'energy' shall be designated as a 'strategic and critical material' after the date of the enactment of this section: *Provided,* That no provision of this Act shall, by virtue of such designation— 50 USC app. 2076.

"(1) grant any new direct or indirect authority to the President for the mandatory allocation or pricing of any fuel or feedstock

(including, but not limited to, crude oil, residual fuel oil, any refined petroleum product, natural gas, or coal) or electricity or any other form of energy; or

"(2) grant any new direct or indirect authority to the President to engage in the production of energy in any manner whatsoever (such as oil and gas exploration and development, or any energy facility construction), except as expressly provided in sections 305 and 306 for synthetic fuel production.".

Post, pp. 619, 623

EXPANSION OF PRODUCTIVE CAPACITY AND SUPPLY

SEC. 104. (a)(1) Section 301(a) of the Defense Production Act of 1950 (50 U.S.C. App. 2091(a)) is amended by inserting "(1)" after "(a)" and by striking out "the Department of the Army, the Department of the Navy, the Department of the Air Force, the Department of Commerce," and inserting in lieu thereof "the Department of Defense, the Department of Energy, the Department of Commerce,".

(2) Section 301(a) of the Defense Production Act of 1950 (50 U.S.C. App. 2091(a)) is amended by adding at the end thereof the following:

"(2) Except as provided in section 305 and section 306, no authority contained in sections 301, 302, or 303 may be used in any manner—

50 USC app 2091, 2093

"(A) in the development, production, or distribution of synthetic fuel;

"(B) for any synthetic fuel project;

"(C) to assist any person for the purpose of providing goods or services to a synthetic fuel project; or

"(D) to provide any assistance to any person for the purchase of synthetic fuel.".

Guarantees, maximum obligations

(b) Section 301(e)(1) of the Defense Production Act of 1950 (50 U.S.C. App. 2091(e)(1)) is amended—

(1) by striking out "Except with the approval of the Congress, the" and inserting in lieu thereof "(A) Except as provided in subparagraph (B), the";

(2) by striking out "$20,000,000" and inserting in lieu thereof "$38,000,000"; and

(3) by adding at the end thereof the following:

Notification to congressional committees

"(B) Guarantees which exceed the amount specified in subparagraph (A) may be entered into under this section only if the Committees on Armed Services of the Senate and the House of Representatives have been notified in writing of such proposed obligation and 60 days of continuous session of Congress have expired following the date on which such notice was transmitted to such committees and neither House of Congress has adopted, within such 60-day period, a resolution disapproving such obligation. For purposes of this subparagraph, the continuity of a session of Congress is broken only by an adjournment of the Congress sine die, and the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of such 60-day period.".

(c) The second sentence of section 302 of the Defense Production Act of 1950 (50 U.S.C. App. 2092) is amended by striking out "$25,000,000" and inserting in lieu thereof "$48,000,000".

(d)(1) Section 303(a) of the Defense Production Act of 1950 (50 U.S.C. App. 2093(a)) is amended by striking out "and metals" each place it appears therein and inserting in lieu thereof ", metals, and materials".

(2) Section 303(b) of the Defense Production Act of 1950 (50 U.S.C. App. 2093(b)) is amended by striking out "September 30, 1985" and inserting in lieu thereof "September 30, 1995".

(3) Section 303(g) of the Defense Production Act of 1950 (50 U.S.C. App. 2093(g)) is amended—

(A) by striking out "and upon a certification" and all that follows through "other national emergency,"; and

(B) by striking out "such" after "of substitutes for".

(e) Title III of the Defense Production Act of 1950 (50 U.S.C. App. 2091 et seq.) is amended by adding at the end thereof the following new sections:

Synthetic fuel, development. 50 USC app. 2095. 50 USC app. 2061, 2071, 2091–2093, *post*, p. 623.

"SEC. 305. (a)(1)(A) Subject to subsection (k)(1), in order to encourage and expedite the development of synthetic fuel for use for national defense purposes, the President, utilizing the provisions of this Act (other than sections 101(a), 101(b), 301, 302, 303, and 306), and any other applicable provision of law, shall take immediate action to achieve production of synthetic fuel to meet national defense needs.

"(B) The President shall exercise the authority granted by this section—

"(i) in consultation with the Secretary of Energy;

"(ii) through the Department of Defense and any other Federal department or agency designated by the President; and

"(iii) consistent with an orderly transition to the separate authorities established pursuant to the United States Synthetic Fuels Corporation Act of 1980.

Post, p. 633.

"(2) This section shall not affect the authority of the United States Synthetic Fuels Corporation.

"(b)(1)(A) To assist in carrying out the objectives of this section, the President, subject to subsections (c) and (d), shall—

Contracts.

"(i) contract for purchases of, or commitments to purchase, synthetic fuel for Government use for defense needs;

Loan guarantees.

"(ii) subject to paragraph (3), issue guarantees in accordance with the provisions of section 301, except that the provisions of section 301(e)(1)(B) shall not apply with respect to such guarantees; and

"(iii) subject to paragraph (3), make loans in accordance with the provisions of section 302, except that the provisions of section 302(2) shall not apply with respect to such loans.

"(2)(A) Except as provided in subparagraph (B) assistance authorized under this subsection may be provided only to persons who are participating in a synthetic fuel project.

"(B) For purposes of fabrication or manufacture of any component of a synthetic fuel project, assistance authorized under paragraph (1)(A)(ii) and paragraph (1)(A)(iii) may be provided to any fabricator or manufacturer of such component.

Proposed loan or guarantee, notification to Congress.

"(3) The President may not utilize the authority under paragraph (1) to provide any loan or guarantee in accordance with the provisions of section 301 or section 302 in amounts which exceed the limitations established in such sections unless the President submits to the Congress notification of the proposed loan or guarantee in the manner specified under section 307 and such proposed action is either approved or not disapproved by the Congress under such section. For purposes of section 307, any proposal pertaining to a proposed loan or guarantee, notice of which is transmitted to the Congress under this paragraph, shall be considered to be a synthetic fuel action.

Post, p. 628.

"(c)(1) Subject to paragraph (2), purchases and commitments to purchase under subsection (b) may be made—

"(A) without regard to the limitations of existing law (other than the limitations contained in this Act) regarding the procurement of goods or services by the Government; and

50 USC app. 2166.

"(B) subject to section 717(a), for such quantities, on such terms and conditions (including advance payments subject to paragraph (3)), and for such periods as the President deems necessary.

"(2) Purchases or commitments to purchase under subsection (b) involving higher than established ceiling prices (or if there are no established ceiling prices, currently prevailing market prices as determined by the Secretary of Energy) shall not be made unless it is determined that supplies of synthetic fuel could not be effectively increased at lower prices or on terms more favorable to the Government, or that such commitments or purchases are necessary to assure the availability to the United States of supplies overseas for use for national defense purposes.

"(3) Advance payments may not be made under this section unless construction has begun on the synthetic fuel project involved or the President determines that all conditions precedent to construction have been met.

Competitive bids.

"(d)(1) Except as provided in paragraph (2), any purchase of or commitment to purchase synthetic fuel under subsection (b) shall be made by solicitation of sealed competitive bids.

"(2) In any case in which no such bids are submitted to the President or the President determines that no such bids which have been submitted to the President are acceptable, the President may negotiate contracts for such purchases and commitments to purchase.

"(3) Any contract for such purchases or commitments to purchase shall provide that the President has the right to refuse delivery of the synthetic fuel involved and to pay the person involved an amount equal to the amount by which the price for such synthetic fuel, as specified in the contract involved, exceeds the market price, as determined by the Secretary of Energy, for such synthetic fuel on the delivery date specified in such contract.

"(4)(A)(i) With respect to any person, including any other person who is substantially controlled by such person (as determined by the Secretary of Energy), the President, subject to subparagraph (A)(ii), may not award contracts for the purchase of or commitment to purchase more than 100,000 barrels per day crude oil equivalent of synthetic fuel.

"(ii) With respect to any person, including any other person who is substantially controlled by such person (as determined by the Secretary of Energy), the President may not award any contract for the purchase or commitment to purchase of more than 75,000 barrels per day crude oil equivalent of synthetic fuel unless the President submits to the Congress notification of such proposed contract or commitment in the manner specified under section 307 and such proposed action is either approved or not disapproved by the Congress under such section. For purposes of section 307, any proposal pertaining to such a proposed contract or commitment, notice of which is transmitted to the Congress under this subparagraph, shall be considered to be a synthetic fuel action.

Post, p. 628.

"(B) A contract for the purchase of or commitment to purchase synthetic fuel may be entered into only for synthetic fuel which is produced in a synthetic fuel project which is located in the United States.

"(C) Each contract entered into under this section for the purchase of or commitment to purchase synthetic fuel shall provide that all parties to such contract agree to review and to possibly renegotiate such contract within 10 years after the date of the initial production at the synthetic fuel project involved. At the time of such review, the President shall determine the need for continued financial assistance pursuant to such contract. Review.

"(5) In any case in which the President, under the provisions of this section, accepts delivery of any synthetic fuel, such synthetic fuel may be used by an appropriate Federal agency. Such Federal agency shall pay for such synthetic fuel the prevailing market price for the product which such synthetic fuel is replacing, as determined by the Secretary of Energy, from sums appropriated to such Federal agency for the purchase of fuel, and the President shall pay, from sums appropriated for such purpose pursuant to the authorizations contained in sections 711(a)(2) and 711(a)(3), an amount equal to the amount by which the contract price for such synthetic fuel as specified in the contract involved exceeds such prevailing market price. *Post*, p. 632.

"(6) In considering any proposed contract under this section, the President shall take into account the socioeconomic impacts on communities which would be affected by any new or expanded facilities required for the production of the synthetic fuel under such contract.

"(e) The procurement power granted to the President under this section shall include the power to transport and store and have processed and refined any product procured under this section.

"(f)(1) No authority contained in this section may be exercised to acquire any amount of synthetic fuel unless the President determines that such synthetic fuel is needed to meet national defense needs and that it is not anticipated that such synthetic fuel will be resold by the Government.

"(2) In any case in which synthetic fuel is acquired by the Government under this section, such synthetic fuel is no longer needed to meet national defense needs, and such synthetic fuel is not accepted by a Federal agency pursuant to subsection (d)(5), the President shall offer such synthetic fuel to the Secretary of Energy for purposes of meeting the storage requirements of the Strategic Petroleum Reserve.

"(3) Any synthetic fuel which is acquired by the Government under this section and which is not used by the Government or accepted by the Secretary of Energy pursuant to paragraph (2) shall be sold in accordance with applicable Federal law.

"(g)(1) Any contract under this section including any amendment or other modification of such contract, shall, subject to the availability of unencumbered appropriations in advance, specify in dollars the maximum liability of the Federal Government under such contract as determined in accordance with paragraph (2).

"(2) For the purpose of determining the maximum liability under any contract under paragraph (1)— Contracts, maximum liability.

"(A) loans shall be valued at the initial face value of the loan;

"(B) guarantees shall be valued at the initial face value of such guarantee (including any amount of interest which is guaranteed under such guarantee);

"(C) purchase agreements shall be valued as of the date of each such contract based upon the President's estimate of the maximum liability under such contract; and

"(D) any increase in the liability of the Government pursuant to any amendment or other modification to a contract for a loan, guarantee, or purchase agreement shall be valued in accordance with the applicable preceding subparagraph.

"(3) If more than one form of assistance is provided under this section to any synthetic fuel project, then the maximum liability under such contract for purposes of paragraphs (1) and (2) shall be valued at the maximum potential exposure on such project at any time during the life of such project.

"(4) Any such contract shall be accompanied by a certification by the Director of the Office of Management and Budget that the necessary appropriations have been made for the purpose of such contract and are available. The remaining available and unencumbered appropriations shall equal the total aggregate appropriations less the aggregate maximum liability of the Federal Government under all contracts pursuant to this section.

"(5) Any commitment made under this section which is nullified or voided for any reason shall not be considered in the aggregate maximum liability for the purposes of paragraph (4).

"(h) For purposes of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)), no action in providing any loan, guarantee, or purchase agreement under this section shall be deemed to be a major Federal action significantly affecting the quality of the human environment.

"(i) All laborers and mechanics employed for the construction, repair, or alteration of any synthetic fuel project funded, in whole or in part, by a guarantee or loan entered into pursuant to this section shall be paid wages at rates not less than those prevailing on projects of a similar character in the locality as determined by the Secretary of Labor in accordance with the Act entitled "An Act relating to the rate of wages for laborers and mechanics employed on public buildings of the United States and the District of Columbia by contractors and subcontractors, and for other purposes", approved March 3, 1931 (40 U.S.C. 276a et seq.) and commonly known as the Davis-Bacon Act. Guaranteeing agencies shall not extend guarantees and the President shall not make loans for the construction, repair or alteration of any synthetic fuel project unless a certification is provided to the agency or the President, as the case may be, prior to the commencement of construction or at the time of filing an application for a loan or guarantee, if construction has already commenced, that these labor standards will be maintained at the synthetic fuel project. With respect to the labor standards specified in this subsection, the Secretary of Labor shall have the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 and section 276(c) of title 40.

5 USC app.

"(j)(1) Nothing in this section shall—

"(A) affect the jurisdiction of the States and the United States over waters of any stream or over any ground water resource;

"(B) alter, amend, repeal, interpret, modify, or be in conflict with any interstate compact made by any States; or

"(C) confer upon any non-Federal entity the ability to exercise any Federal right to the waters of any stream or to any ground water resource.

"(2) No synthetic fuel project constructed pursuant to the authorities of this section shall be considered to be a Federal project for purposes of the application for or assignment of water rights.

"(k)(1) Subject to paragraph (2), the authority of the President to enter into any new contract or commitment under this section shall cease to be effective on the date on which the President determines that the United States Synthetic Fuels Corporation is established and fully operational consistent with the provisions of the United States Synthetic Fuels Corporation Act of 1980.

Post, p. 633.

"(2) Contracts entered into under this section before the date specified in paragraph (1) may be renewed and extended by the President after the date specified in paragraph (1) but only to the extent that Congress has specifically appropriated funds for such renewals and extensions.

"SEC. 306. (a)(1) At any time after the date of the enactment of this section, the President may, subject to paragraph (2), invoke the authorities provided under this section upon making all the following determinations and transmitting a report to the Congress regarding such determinations:

50 USC app. 2096.

"(A) a national energy supply shortage has resulted or is likely to result in a shortfall of petroleum supplies in the United States, and such shortage is expected to persist for a period of time sufficient to seriously threaten the adequacy of defense fuel supplies essential to direct defense and direct defense industrial base programs;

"(B) the continued adequacy of such supplies cannot be assured and requires expedited production of synthetic fuel to provide such defense fuel supplies;

"(C) the expedited production of synthetic fuel to provide such defense fuel supplies will not be accomplished in a timely manner by the United States Synthetic Fuels Corporation; and

"(D) the exercise of the authorities provided under subsection (c) is necessary to provide for the expedited production of synthetic fuel to provide such defense fuel supplies.

"(2)(A) Any transmittal under paragraph (1) shall contain a determination by the President regarding the extent of the anticipated shortage of petroleum supplies. If the President determines that such shortage is greater than 25 percent, the authorities invoked by the President under this section shall be effective on the date on which the report required under paragraph (1) is transmitted to the Congress.

"(B) If the President determines that such shortage is less than 25 percent, the transmittal under paragraph (1) shall be made in accordance with section 307 and the authorities under this section shall be effective only as provided under such section. For purposes of section 307, any determination to invoke authorities under this section, notice of which is transmitted to the Congress under this subsection, shall be considered to be a synthetic fuel action.

Post, p. 628.

"(3) No court shall have the authority to review any determination made by the President under this subsection.

"(b)(1)(A) Subject to the requirements of subsection (a), in order to encourage and expedite the development of synthetic fuel for use for national defense purposes, the President, utilizing the provisions of this Act (other than sections 101(a), 101(b), 301, 302, 303, and 305), and any other applicable provision of law, shall take immediate action to achieve production of synthetic fuel to meet national defense needs.

50 USC app. 2071, 2091-2093, *ante*, p. 619.

"(B) The President shall exercise the authority granted by this section—

"(i) in consultation with the Secretary of Energy; and

"(ii) through the Department of Defense and any other Federal department or agency designated by the President.

"(2) This section shall not affect the authority of the United States Synthetic Fuels Corporation.

"(c)(1)(A) To assist in carrying out the objectives of this section, the President, subject to subsections (d) and (e), shall—

"(i) contract for purchases of or commitments to purchase synthetic fuel for Government use for defense needs;

"(ii) subject to paragraph (4), issue guarantees in accordance with the provisions of section 301, except that the provisions of section 301(e)(1)(B) shall not apply with respect to such guarantees;

50 USC app. 2091.

"(iii) subject to paragraph (4), make loans in accordance with the provisions of section 302, except that the provisions of section 302(2) shall not apply with respect to such loans;

50 USC app. 2092.

"(iv) have the authority to require fuel suppliers to provide synthetic fuel in any case in which the President deems it practicable and necessary to meet the national defense needs of the United States. Nothing in this paragraph shall be intended to provide authority for the President to require fuel suppliers to produce synthetic fuel if such suppliers are not already producing synthetic fuel or do not intend to produce synthetic fuel;

"(v) have the authority to install additional equipment, facilities, processes, or improvements to plants, factories, and other industrial facilities owned by the Government, and to install Government-owned equipment in plants, factories, and other industrial facilities owned by private persons; and

"(vi) have the authority to undertake Government synthetic fuel projects in accordance with the provisions of paragraph (2).

"(B)(i) Except as provided in clause (ii), assistance authorized under this subsection may be provided only to persons who are participating in a synthetic fuel project.

"(ii) For purposes of fabrication or manufacture of any component of a synthetic fuel project, assistance authorized under paragraph (1)(A)(ii) and paragraph (1)(A)(iii) may be provided to any fabricator or manufacturer of such component.

Synthetic fuel projects, Government ownership.

"(2)(A) The Government, acting through the President, is authorized to own Government synthetic fuel projects. In any case in which the Government owns a Government synthetic fuel project, the Government shall contract for the construction and operation of such project.

"(B) The authority of the Government pursuant to subparagraph (A) to own and contract for the construction and operation of any Government synthetic fuel project shall include, among other things, the authority to—

"(i) subject to subparagraph (C), take delivery of synthetic fuel from such project; and

"(ii) transport and store and have processed and refined such synthetic fuel.

"(C) Any synthetic fuel which the Government takes delivery of from a Government synthetic fuel project shall be disposed of in accordance with subsection (g).

"(D) To the maximum extent feasible, the President shall utilize the private sector for the activities associated with this paragraph.

"(3)(A) Except as provided in subparagraph (B), any contract for the construction or operation of a Government synthetic fuel project shall be made by solicitation of sealed competitive bids.

"(B) In any case in which no such bids are submitted to the President or the President determines that no such bids have been submitted which are acceptable to the President, the President may negotiate contracts for such construction and operation.

"(4) The President may not utilize the authority under paragraph (1) to provide any loan or guarantee in accordance with the provisions of section 301 or section 302 in amounts which exceed the limitations established in such sections unless the President submits to the Congress notification of the proposed loan or guarantee in the manner specified under section 307 and such proposed action is either approved or not disapproved by the Congress under such section. For purposes of section 307, any proposal pertaining to a proposed loan or guarantee, notice of which is transmitted to the Congress under this paragraph, shall be considered to be a synthetic fuel action.

50 USC app. 2091, 2092.

Post, p. 628.

"(5) Before the President may utilize any specific authority described under paragraph (1), the President shall transmit to the Congress a statement containing a certification that the determinations made by the President in the transmittal to the Congress under subsection (a)(1) are still valid at the time of the transmittal of such certification.

"(6)(A) No authority contained in paragraphs (1)(A)(i) through (1)(A)(iv) may be utilized by the President unless the use of such authority has been authorized by the Congress in an Act hereinafter enacted by the Congress.

"(B) The President may not utilize any authority under paragraph (1)(A)(v) or paragraph (1)(A)(vi) unless the proposed exercise of authority has been specifically authorized on a project-by-project basis in an Act hereinafter enacted by the Congress and funds have been specifically appropriated by the Congress for purposes of exercising such authority.

"(d)(1) Subject to paragraph (2), purchases and commitments to purchase under subsection (c) may be made—

"(A) without regard to the limitations of existing law (other than those limitations contained in this Act) regarding the procurement of goods or services by the Government; and

"(B) subject to section 717(a), for such quantities, on such terms and conditions (including advance payments subject to paragraph (3)), and for such periods as the President deems necessary.

50 USC app. 2166.

"(2) Purchases or commitments to purchase under subsection (c) involving higher than established ceiling prices (or if there are no established ceiling prices, currently prevailing market prices as determined by the Secretary of Energy) shall not be made unless it is determined that supplies of synthetic fuel could not be effectively increased at lower prices or on terms more favorable to the Government, or that such commitments or purchases are necessary to assure the availability to the United States of supplies overseas for use for national defense purposes.

"(3) Advance payments may not be made under this section unless construction has begun on the synthetic fuel project involved or the President determines that all conditions precedent to construction have been met.

"(e)(1) Except as provided in paragraph (2), any purchase or commitment to purchase synthetic fuel under subsection (c) shall be made by solicitation of sealed competitive bids.

"(2) In any case in which no such bids are submitted to the President or the President determines that no such bids which have been submitted to the President are acceptable, the President may

negotiate contracts for such purchases and commitments to purchase.

"(3) Any contract for such purchases or commitments to purchase shall provide that the President has the right to refuse delivery of the synthetic fuel involved and to pay the person involved an amount equal to the amount by which the price for such synthetic fuel, as specified in the contract involved, exceeds the market price, as determined by the Secretary of Energy, for such synthetic fuel on the delivery date specified in such contract.

"(4)(A) With respect to any person, including any other person who is substantially controlled by such person (as determined by the Secretary of Energy), the President, subject to subparagraph (B), may not award contracts for the purchase of or commitment to purchase more than 100,000 barrels per day crude oil equivalent of synthetic fuel.

"(B) With respect to any person, including any other person who is substantially controlled by such person (as determined by the Secretary of Energy), the President may not award any contract for the purchase of or commitment to purchase more than 75,000 barrels per day crude oil equivalent of synthetic fuel unless the President submits to the Congress notification of such proposed contract or commitment in the manner specified under section 307 and such proposed action is either approved or not disapproved by the Congress under such section. For purposes of section 307, any proposal pertaining to such a proposed contract or commitment, notice of which is transmitted to the Congress under this subparagraph, shall be considered to be a synthetic fuel action.

Post, p. 628.

"(5) A contract for the purchase of or commitment to purchase synthetic fuel may be entered into only for synthetic fuel which is produced in a synthetic fuel project which is located in the United States.

"(6) Each contract entered into under this section for the purchase of or commitment to purchase synthetic fuel shall provide that all parties to such contract agree to review and to possibly renegotiate such contract within 10 years after the date of the initial production at the synthetic fuel project involved. At the time of such review, the President shall determine the need for continued financial assistance pursuant to such contract.

"(7) In any case in which the President, under the provisions of this section, accepts delivery of any synthetic fuel, such synthetic fuel may be used by an appropriate Federal agency. Such Federal agency shall pay for such synthetic fuel the prevailing market price for the product which such synthetic fuel is replacing, as determined by the Secretary of Energy, from sums appropriated to such Federal agency for the purchase of fuel, and the President shall pay, from sums appropriated for such purpose, an amount equal to the amount by which the contract price for such synthetic fuel as specified in the contract involved exceeds such prevailing market price.

"(8) In considering any proposed contract under this section, the President shall take into account the socioeconomic impacts on communities which would be affected by any new or expanded facilities required for the production of the synthetic fuel under such contract.

"(f) The procurement power granted to the President under this section shall include the power to transport and store and have processed and refined any product procured under this section.

"(g)(1) No authority contained in this section may be exercised to acquire any amount of synthetic fuel unless the President determines that such synthetic fuel is needed to meet national defense needs and that it is not anticipated that such synthetic fuel will be resold by the Government.

"(2) In any case in which synthetic fuel is acquired by the Government under this section, such synthetic fuel is no longer needed to meet national defense needs, and such synthetic fuel is not accepted by a Federal agency pursuant to subsection (e)(7), the President shall offer such synthetic fuel to the Secretary of Energy for purposes of meeting the storage requirements of the Strategic Petroleum Reserve.

"(3) Any synthetic fuel which is acquired by the Government under this section and which is not used by the Government or accepted by the Secretary of Energy pursuant to paragraph (2), shall be sold in accordance with applicable Federal law.

"(h)(1) Any contract under this section, including any amendment or other modification of such contract, shall, subject to the availability of unencumbered appropriations in advance, specify in dollars the maximum liability of the Federal Government under such contract as determined in accordance with paragraph (2).

"(2) For the purpose of determining the maximum liability under any contract under paragraph (1)— Contracts, maximum liability.

"(A) loans shall be valued at the initial face value of the loan;

"(B) guarantees shall be valued at the initial face value of such guarantee (including any amount of interest which is guaranteed under such guarantee);

"(C) purchase agreements shall be valued as of the date of each such contract based upon the President's estimate of the maximum liability under such contract;

"(D) contracts for activities under subsection (c)(1)(A)(v) shall be valued at the initial face value of such contract;

"(E) Government synthetic fuel projects pursuant to subsection (c)(1)(A)(vi) shall be valued at the current estimated cost to the Government, as determined annually by the President; and

"(F) any increase in the liability of the Government pursuant to any amendment or other modification to a contract for a loan, guarantee, purchase agreement, contract for activities under subsection (c)(1)(A)(v), or Government synthetic fuel project pursuant to subsection (c)(1)(A)(vi) shall be valued in accordance with the applicable preceding subparagraph.

"(3) If more than one form of assistance is provided under this section to any synthetic fuel project then the maximum liability under such contract for purposes of paragraphs (1) and (2) shall be valued at the maximum potential exposure on such project at any time during the life of such project.

"(4) Any such contract shall be accompanied by a certification by the Director of the Office of Management and Budget that the necessary appropriations have been made for the purpose of such contract and are available. The remaining available and unencumbered appropriations shall equal the total aggregate appropriations less the aggregate maximum liability of the Federal Government under all contracts pursuant to this section.

"(5) Any commitment made under this section which is nullified or voided for any reason shall not be considered in the aggregate maximum liability for the purposes of paragraph (4).

"(i) For purposes of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)), no action in providing any loan, guarantee, or purchase agreement under this section, shall be deemed to be a major Federal action significantly affecting the quality of the human environment.

Wages.

"(j) All laborers and mechanics employed for the construction, repair, or alteration of any synthetic fuel project funded, in whole or in part, by a guarantee or loan entered into pursuant to this section shall be paid wages at rates not less than those prevailing on projects of a similar character in the locality as determined by the Secretary of Labor in accordance with the Act entitled "An Act relating to the rate of wages for laborers and mechanics employed on public buildings of the United States and the District of Columbia by contractors and subcontractors and for other purposes", approved March 3, 1931 (40 U.S.C. 276a et seq.) and commonly known as the Davis-Bacon Act. Guaranteeing agencies shall not extend guarantees and the President shall not make loans for the construction, repair or alteration of any synthetic fuel project unless a certification is provided to the agency or the President, as the case may be, prior to the commencement of construction or at the time of filing an application for a loan or guarantee, if construction has already commenced, that these labor standards will be maintained at the synthetic fuel project. With respect to the labor standards specified in this subsection, the Secretary of Labor shall have the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 and section 276(c) of title 40.

5 USC app.

"(k)(1) Nothing in this section shall—

"(A) affect the jurisdiction of the States and the United States over waters of any stream or over any ground water resource;

"(B) alter, amend, repeal, interpret, modify, or be in conflict with any interstate compact made by any States; or

"(C) confer upon any non-Federal entity the ability to exercise any Federal right to the waters of any stream or to any ground water resource.

"(2) No synthetic fuel project constructed pursuant to the authorities of this section shall be considered to be a Federal project for purposes of the application for or assignment of water rights.

"(l) Renewals and extensions of contracts entered into under this section shall be made only to the extent that Congress has specifically appropriated funds for such renewals and extensions, unless the President certifies that the determinations under section 306(a)(1) remain in effect for purposes of the use of such authority.

"Synthetic fuel action."
50 USC app. 2097.

"SEC. 307. (a) For purposes of this section, the term 'synthetic fuel action' means any matter required to be transmitted, or submitted to the Congress in accordance with the procedures of this section.

Transmittal to Congress.

"(b) The President shall transmit any synthetic fuel action (bearing an identification number) to both Houses of the Congress on the same day. If both Houses are not in session on the day on which any synthetic fuel action is received by the appropriate officers of each House, such synthetic fuel action shall be deemed to have been received on the first succeeding day on which both Houses are in session.

"(c)(1) Except as provided in paragraph (2) and in subsection (e), if a synthetic fuel action is transmitted to both Houses of Congress, such synthetic fuel action shall take effect at the end of the first period of 30 calendar days of continuous session of the Congress after the date on which such synthetic fuel action is received by such Houses, unless

between the date on which such synthetic fuel action is received and the end of such 30 calendar day period, either House passes a resolution stating in substance that such House does not favor such action.

"(2) A synthetic fuel action described in paragraph (1) may take effect prior to the expiration of the 30-calendar-day period after the date on which such action is received, if each House of Congress approves a resolution affirmatively stating in substance that such House does not object to such synthetic fuel action. Except as provided in subsection (e), in any such case, such synthetic fuel action shall take effect on the date on which such resolution is approved.

"(d) For purposes of subsection (c)—

"(1) continuity of session is broken only by an adjournment of the Congress sine die; and

"(2) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of the 30-calendar-day period.

"(e) Under provisions contained in a synthetic fuel action, any provision of such synthetic fuel action may take effect on a date later than the date on which such synthetic fuel action otherwise would take effect, if such action is not disapproved, pursuant to the provisions of this section.

"(f) This section is enacted by the Congress—

"(1) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions described by subsection (g) of this section, and it supersedes other rules only to the extent that it is inconsistent with such rules; and

"(2) with full recognition of the constitutional right of either House to change the rules (so far as they relate to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of the House.

"(g)(1) For purposes of subsection (b), the term 'resolution' means a resolution of either House of the Congress described in paragraph (2) or paragraph (3). "Resolution."

"(2) A resolution the matter after the resolving clause of which is as follows: 'That the _____ does not object to the synthetic fuel action numbered _____ received by the Congress on _____, 19__.', the first blank space therein being filled with the name of the resolving House and the other blank spaces being appropriately filled. Any such resolution may only contain a reference to one synthetic fuel action.

"(3) A resolution the matter after the resolving clause of which is as follows: 'That the _____ does not favor the synthetic fuel action numbered _____ received by the Congress on _____, 19__.', the first blank space therein being filled with the name of the resolving House and the other blank spaces therein being appropriately filled. Any such resolution may only contain a reference to one synthetic fuel action.

"(4) A resolution once introduced with respect to a synthetic fuel action shall immediately be referred to a committee (and all resolutions with respect to the same synthetic fuel action shall be referred to the same committee) by the President of the Senate or the Speaker of the House of Representatives, as the case may be.

"(8)(A) If the committee to which a resolution with respect to a synthetic fuel action has been referred has not reported it at the end of 30 calendar days after it was received by the House involved, it shall be in order to move either to discharge the committee from further consideration of such resolution or to discharge the committee from further consideration of any other resolution with respect to such synthetic fuel action which has been referred to the committee.

"(B) A motion to discharge may be made only by an individual favoring the resolution, shall be highly privileged (except that it may not be made after the committee has reported a resolution with respect to the same synthetic fuel action), and debate thereon shall be limited to not more than one hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

"(C) If the motion to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other resolution with respect to the same synthetic fuel action.

"(9)(A) When the committee has reported or has been discharged from further consideration of a resolution, it shall be at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion shall be highly privileged and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

Debate time limitation.

"(B) Debate on the resolution referred to in subparagraph (A) of this paragraph shall be limited to not more than 2 hours, which shall be divided equally between those favoring and those opposing such resolution. A motion further to limit debate shall not be debatable. An amendment to, or motion to recommit, the resolution shall not be in order, and it shall not be in order to move to reconsider the vote by which such resolution was agreed to or disagreed to, except that it shall be in order—

"(i) to offer an amendment in the nature of a substitute consisting of the text of the resolution described in paragraph (3) with respect to a synthetic fuel action, for a resolution described in paragraph (3) with respect to the same synthetic fuel action, or

"(ii) to offer an amendment in the nature of a substitute consisting of the text of a resolution described in paragraph (3) with respect to a synthetic fuel action, for a resolution described in paragraph (2) with respect to the same such synthetic fuel action.

"(C) The amendments described in clauses (i) and (ii) of subparagraph (B) shall not be amendable and shall be debatable under the 5-minute rule in the House of Representatives by the offering of pro forma amendments.

"(10)(A) Motions to postpone made with respect to the discharge from committee or the consideration of a resolution and motions to proceed to the consideration of other business, shall be decided without debate.

Appeals.

"(B) Appeals from the decision of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution shall be decided without debate.

"(5) Notwithstanding any of the provisions of this subsection, if a House has approved a resolution with respect to a synthetic fuel action, then a motion to recommit shall not be in order nor shall it be in order to consider in that House any other resolution with respect to the same synthetic fuel action.

"SEC. 308. (a) For purposes of this Act, the term 'Government synthetic fuel project' means a synthetic fuel project undertaken in accordance with the provisions of section 306(c).

Government synthetic fuel project.
15 USC app. 3006.

"(b)(1)(A) For purposes of this Act, the term 'synthetic fuel' means any solid, liquid, or gas, or combination thereof, which can be used as a substitute for petroleum or natural gas (or any derivatives thereof, including chemical feedstocks) and which is produced by chemical or physical transformation (other than washing, coking, or desulfurizing) of domestic sources of—

Synthetic fuel.

"(i) coal, including lignite and peat,

"(ii) shale,

"(iii) tar sands, including those heavy oil resources where—

"(I) the cost and the technical and economic risks make extraction and processing of a heavy oil resource uneconomical under applicable pricing and tax policies, and

"(II) the costs and risks are comparable to those associated with shale, coal, and tar sand resources (other than heavy oil) qualifying for assistance under section 306 or section 306, and

15 USC app. 3006, 3054.

"(iv) water, as a source of hydrogen only through electrolysis.

"(B) Such term includes mixtures of coal and combustible liquids, including petroleum.

"(C) Such term does not include solids, liquids, or gases, or combinations thereof, derived from biomass, which includes timber, animal and timber waste, municipal and industrial waste, sewage, sludge, aquatic and terrestrial plants, and other organic matter.

"(2)(A) For purposes of this Act, the term 'synthetic fuel project' means any facility using an integrated process or processes at a specific geographic location in the United States for the purpose of commercial production of synthetic fuel. The project may include only—

Synthetic fuel project.

"(i) the facility, including the equipment, plant, machinery, supplies, and other materials associated with the facility, which converts the domestic resource to synthetic fuel,

"(ii) the land and mineral rights required directly for use in connection with the facilities for the production of synthetic fuels,

"(iii) any facility or equipment to be used in the extraction of a mineral for use directly and exclusively in such conversion,

"(I) which—

"(aa) is co-located with the conversion facility or is located in the immediate vicinity of the conversion facility, or

"(bb) if not co-located or located in the immediate vicinity, is incidental to the project (except in the event of a coal mine where no other reasonable source of coal is available to the project), and

"(II) which is necessary to the project, and

"(iv) any transportation facility, electric powerplant, electric transmission line or other facility—

"(I) which is for the exclusive use of the project,

"(II) which is incidental to the project, and

"(III) which is necessary to the project, except that transportation facilities used to transport synthetic fuel away from the project shall be used exclusively to transport synthetic fuel to a storage facility or pipeline connecting to an existing pipeline or processing facility or area within close proximity of the project.

"(B)(i) Such term may also include a project which will result in the replacement of a significant amount of oil and is—

"(I) used solely for the production of a mixture of coal and combustible liquids, including petroleum, for direct use as a fuel, but shall not include—

"(aa) any mineral right; or

"(bb) any facility or equipment for extraction of any mineral;

"(II) used solely for the commercial production of hydrogen from water through electrolysis; and

"(III) a magnetohydrodynamic topping cycle used solely for the commercial production of electricity.

"(ii) Such a synthetic fuel project using magnetohydrodynamic technology shall only be eligible for guarantees under section 305 or section 306.

Definitions.

"(C) For purposes of this paragraph—

"(i) the term 'exclusive' means for the sole use of the project, except that an incidental by-product might be used for other purposes;

"(ii) the term 'incidental' means a relatively small portion of the total project cost; and

"(iii) the term 'necessary' means an integrated part of the project taking into account considerations of economy and efficiency of operation.

"United States." *Ante*, pp. 619, 623.

"(c) For purposes of section 305 and section 306, the term 'United States' means the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States."

GENERAL PROVISIONS

SEC. 105. (a) Section 711(a) of the Defense Production Act of 1950 (50 U.S.C. App. 2161(a)) is amended—

(1) by inserting ", but excluding sections 305 and 306" after "payment of interest under subsection (b) of this section";

(2) by inserting "pursuant to this paragraph" after "Funds made available";

(3) by striking out "There" and inserting in lieu thereof "(1) Except as provided in paragraph (2), there"; and

(4) by adding at the end thereof the following new paragraphs:

Appropriation authorization.

"(2)(A) There are hereby authorized to be appropriated without fiscal year limitation not to exceed $3,000,000,000 to carry out the provisions of section 305 until the date on which the authority of the President under such section ceases to be effective in accordance with section 305(k)(1). Subject to subparagraphs (B) and (C), all such funds shall remain available until expended.

Ante, p. 619.

"(B) Such funds may be expended to carry out section 305 after such date only if such funds were obligated by the President before such date, or are required to be retained as a reserve against a contingent obligation incurred before such date.

"(C) Any sums appropriated pursuant to this paragraph which have not been expended or obligated pursuant to subparagraph (B) as of the date determined under section 305(k)(1) or are not required to be retained as a reserve against a contingent obligation as specified in subparagraph (B), shall be transferred to the Energy Security Reserve and made available to the Secretary of the Treasury for the United States Synthetic Fuels Corporation pursuant to section 195 of the United States Synthetic Fuels Corporation Act of 1980.

Ante, p. 619.

Post, p. 682.

"(3) There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of section 305(k)(2).".

(b) The first sentence of section 717(a) of the Defense Production Act of 1950 (50 U.S.C. App. 2166(a)) is amended by striking out "August 27, 1980" and inserting in lieu thereof "September 30, 1981".

(c) Section 701(d) of the Defense Production Act of 1950 (50 U.S.C. App. 2151(d)) is amended by striking out "Defense Production Act Amendments of 1955" and inserting in lieu thereof "Defense Production Act Amendments of 1980"

REPORTS

SEC. 106. Beginning one year after the effective date of this part, and annually thereafter, the President shall submit a report to the Congress on actions taken under sections 305 and 306 of the Defense Production Act of 1950.

50 USC app. 2096a.

Ante, pp. 619, 623.

EFFECTIVE DATE

SEC. 107. The amendments made by this part shall take effect on the date of the enactment of this part.

50 USC app. 2062 note.

Part B—United States Synthetic Fuels Corporation

United States Synthetic Fuels Corporation Act of 1980.

SUBTITLE A—GENERAL PROVISIONS

SHORT TITLE

SEC. 111. This part may be cited as the "United States Synthetic Fuels Corporation Act of 1980"

42 USC 8701 note.

GENERAL DEFINITIONS

SEC. 112. For purposes of this part:

42 USC 8702.

(1) The term "Board of Directors" means the Board of Directors of the Corporation, including the Chairman and the six other Directors.

(2) The term "Chairman" means the Chairman of the Board of Directors of the Corporation.

(3) The term "concern" means any—

(A) person;

(B) State or political subdivision or governmental entity thereof, or an Indian tribe or tribal organization;

(C) multi-State entity which possesses legal powers necessary to carry out activities under this part;

(D) foreign government or agency thereof when participating in joint ventures with any entity described in subparagraph (A) or (B); or

(E) combination of the aforementioned, which is engaged, or proposes to engage, in a synthetic fuel project pursuant to this part.

(4) The term "Corporation" means the United States Synthetic Fuels Corporation.

(5) The term "Corporation construction project" means a synthetic fuel project undertaken in accordance with the provisions of subtitle E.

(6) The term "Director" means a member of the Board of Directors, including the Chairman.

(7)(A) The term "financial assistance" means any of the following forms of financial assistance, or combinations thereof, as provided in subtitle D—

(i) loans;

(ii) loan guarantees;

(iii) price guarantees;

(iv) purchase agreements;

(v) joint-ventures; and

(vi) acquisition and lease back of a synthetic fuel project pursuant to section 137(c);

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(B) Such term shall not include any form of grant, except cost-sharing agreements pursuant to section 131(u).

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(8) The term "Indian tribe" means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(9) The term "joint venture" means a synthetic fuel project module undertaken in accordance with the provisions of section 136.

(10) The term "loan" means a loan, or commitment to loan, made under section 132;

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(11) The term "loan guarantee" means a guarantee of, or commitment to guarantee, indebtedness, which is made under section 133.

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(12) The term "person" means any individual, company, cooperative, partnership, corporation, association, consortium, unincorporated organization, trust, estate, or any entity organized for a common business purpose.

(13) The term "price guarantee" means a guarantee of, or commitment to guarantee, the price received or to be received by a concern from the sale of synthetic fuel. Such term includes only a guarantee, or commitment to guarantee, which is made under section 134.

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(14) The term "purchase agreement" means any contract to purchase synthetic fuel, any guarantee thereof, or a commitment thereof, which is made under section 135.

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(15) The term "qualified concern" means a concern which demonstrates to the satisfaction of the Board of Directors evidence of its capability directly or by contract to undertake and complete the design, construction, and operation of a proposed synthetic fuel project.

(16) The term "State" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(17)(A) The term "synthetic fuel" means any solid, liquid, or gas, or combination thereof, which can be used as a substitute for

petroleum or natural gas (or any derivatives thereof, including chemical feedstocks) and which is produced by chemical or physical transformation (other than washing, coking, or desulfurizing) of domestic sources of—

(i) coal, including lignite and peat;

(ii) shale;

(iii) tar sands, including those heavy oil resources where—

(I) the cost and the technical and economic risks make extraction and processing of a heavy oil resource uneconomical under applicable pricing and tax policies; and

(II) the costs and risks are comparable to those associated with shale, coal and tar sand resources (other than heavy oil) qualifying for financial assistance under this part; and

(iv) water, as a source of hydrogen only through electrolysis.

(B) Such term includes mixtures of coal and combustible liquids, including petroleum.

(C) Such term does not include solids, liquids, or gases, or combinations thereof, derived from biomass, which includes timber, animal and timber waste, municipal and industrial waste, sewage, sludge, oceanic and terrestrial plants, and other organic matter.

(18)(A) The term "synthetic fuel project" means any facility using an integrated process or processes at a specific geographic location in the United States for the purpose of commercial production of synthetic fuel. The project may include only—

(i) the facility, including the equipment, plant, machinery, supplies, and other materials associated with the facility, which converts the domestic resource to synthetic fuel;

(ii) the land and mineral rights required directly for use in connection with the facilities for the production of synthetic fuels;

(iii) any facility or equipment to be used in the extraction of a mineral for use directly and exclusively in such conversion;

(I) which—

(aa) is co-located with the conversion facility or is located in the immediate vicinity of the conversion facility; or

(bb) if not co-located or located in the immediate vicinity, is incidental to the project (except in the event of a coal mine where no other reasonable source of coal is available to the project); and

(II) which is necessary to the project; and

(iv) any transportation facility, electric powerplant, electric transmission line or other facility—

(I) which is for the exclusive use of the project;

(II) which is incidental to the project; and

(III) which is necessary to the project, except that transportation facilities used to transport synthetic fuel away from the project shall be used exclusively to transport synthetic fuel to a storage facility or pipeline connecting to an existing pipeline or processing facility or area within close proximity of the project.

(B)(i) Such term may also include a project which will result in the replacement of a significant amount of oil and is—

best

(I) used solely for the production of a mixture of coal and combustible liquids, including petroleum, for direct use as a fuel, but shall not include—

(aa) any mineral right; or

(bb) any facility or equipment for extraction of any mineral;

(II) used solely for the commercial production of hydrogen from water through electrolysis; and

(III) a magnetohydrodynamic topping cycle used solely for the commercial production of electricity.

(ii) Such a synthetic fuel project using magnetohydrodynamic technology shall only be eligible for financial assistance pursuant to section 133 or section 136, but not both, and shall not be authorized for purposes of subtitle E.

Post, pp. 660, 662.

Post, p. 665.

(iii) Such a synthetic fuel project for commercial production of hydrogen from water shall not be eligible for financial assistance pursuant to section 136.

(C) For purposes of this paragraph—

(i) the term "exclusive" means for the sole use of the project, except that an incidental byproduct might be used for other purposes;

(ii) the term "incidental" means a relatively small portion of the total project cost; and

(iii) the term "necessary" means an integrated part of the project taking into account considerations of economy and efficiency of operation.

EFFECTIVE DATE

42 USC 8701 note.

SEC. 113. This part shall take effect on the date of the enactment of this part.

SUBTITLE B—ESTABLISHMENT OF CORPORATION

ESTABLISHMENT

United States Synthetic Fuels Corporation.
42 USC 8711.

SEC. 115. (a) There is hereby created the United States Synthetic Fuels Corporation.

(b) The principal office of the Corporation shall be located in the District of Columbia. The Corporation may establish offices elsewhere in the United States as determined by the Board of Directors of the Corporation. The Corporation is deemed to be a resident of the District of Columbia.

(c) The general powers of the Corporation are those powers specified in section 171.

Post, p. 673.

BOARD OF DIRECTORS

42 USC 8712.

SEC. 116. (a)(1) The powers of the Corporation shall be vested in the Board of Directors, except those functions, powers, and duties vested in the Chairman by or pursuant to this part.

Membership.

(2) The Board of Directors shall consist of a Chairman and six other Directors appointed by the President by and with the advice and consent of the Senate. Not more than four Directors shall be members of any one political party. The Chairman shall devote full working time to the affairs of the Corporation and shall hold no other salaried position.

Terms.

(b)(1) The Directors shall serve for seven-year terms. Of the Directors first appointed, the Chairman shall serve as Chairman for a seven-year term, one Director shall serve for a term of six years, one

shall serve for a term of five years, one shall serve for a term of four years, one shall serve for a term of three years, one shall serve for a term of two years, and one shall serve for a term of one year.

(2) Upon expiration of the initial term of each initial Director, each Director appointed thereafter shall serve for a term of seven years. Whenever a vacancy shall occur on the Board of Directors, the President shall appoint, by and with the advice and consent of the Senate, an individual to fill such vacancy for the remainder of the applicable term. Upon the expiration of a term, a Director may continue to serve for a maximum of one year or until a successor shall have been appointed and shall have taken office, whichever occurs first.

(3) Any Director may be removed from office by the President only for neglect of duty, or malfeasance in office. Removal.

(c) The President shall designate, at the time of appointment of a Director, whether such Director, other than the Chairman, will serve in either a full-time or part-time capacity. Directors serving in a part-time capacity may not hold any full-time salaried position in the Federal Government or in any State or local government. Directors serving in a full-time capacity shall hold no other salaried position.

(d) Before assuming office, each Director shall take an oath faithfully to discharge the duties thereof. All Directors shall be citizens of the United States. Oath.

(e) The Board of Directors shall meet at any time pursuant to the call of the Chairman and as may be provided by the bylaws of the Corporation, but not less than quarterly. A majority of the Board of Directors shall constitute a quorum, and any action by the Board of Directors shall be effected by majority vote of all members of the Board of Directors. The Board of Directors shall adopt, and may from time to time amend, such bylaws as are necessary for the proper management and functioning of the Corporation.

(f)(1) All meetings of the Board of Directors held to conduct official business of the Corporation shall be open to public observation, and shall be preceded by reasonable public notice. Pursuant to such bylaws as it may establish, the Board of Directors may close a meeting if the meeting is likely to disclose— Open meetings. Exceptions.

(A) information which is likely to adversely affect financial or securities markets or institutions;

(B) information the premature disclosure of which would be likely to—

(i) lead to speculation in securities, commodities, minerals, or land; or

(ii) impede—

(I) the ability of the Corporation to establish procurement or synthetic fuel project selection criteria; or

(II) its ability to negotiate a contract for financial assistance; or

(C) matters or information exempted from public disclosure pursuant to paragraph (1), (2), (4), (5), or (6) of subsection (c) of section 552b, title 5 of the United States Code.

(2) The determination to close any meeting of the Board of Directors for any of the purposes specified in subparagraphs (A) through (C) of paragraph (1) shall be made in a meeting of the Board of Directors open to public observation preceded by reasonable notice. The Board of Directors shall prepare minutes of any meeting which is closed to the public and such minutes shall be made promptly available to the public, except for those portions thereof which, in the

judgment of the Board of Directors, may be withheld under the provisions of subparagraphs (A) through (C) of paragraph (1).

(g) The levels of compensation of the Board of Directors shall be fixed initially by the President and may be adjusted from time to time upon recommendation by the Board of Directors and concurrence of the President.

OFFICERS AND EMPLOYEES

42 USC 8713.

SEC. 117. (a) The Chairman shall be the chief executive officer of the Corporation, and shall be responsible for the management and direction of the Corporation.

(b) The Board of Directors shall—

(1) establish the offices and appoint the officers of the Corporation (including a General Counsel and Treasurer) and define their duties;

(2) fix the compensation of individual officer positions and categories of other employees of the Corporation taking into consideration the rates of compensation in effect under the Executive Schedule and the General Schedule prescribed by subchapters II and III of chapter 53 of title 5, United States Code for comparable positions or categories. If the Board of Directors determines that it is necessary to fix the compensation of any officer position or category of other positions at a rate or rates in excess of that prescribed for level I of the Executive Schedule under section 5312 of title 5, the Board of Directors may transmit to the President its recommendations with respect to the rates of compensation it deems advisable for such positions and categories. Such recommendations shall become effective at the beginning of the first pay period which begins after the thirtieth day following the transmittal of such recommendations unless the President has specifically disapproved such recommendation and notified the Board of Directors to such effect; and

5 USC 5311, 5331.

(3) provide a system of organization to fix responsibility and promote efficiency.

(c) Except as specifically provided herein, Directors, officers, and employees of the Corporation shall not be subject to any law of the United States relating to governmental employment.

(d) The Chairman shall appoint such employees as may be necessary for the transaction of the Corporation's business to, and may discharge such employees from, positions established in accordance with this section: *Provided, however,* That the Corporation shall not be authorized to employ more than three hundred individuals in full-time professional positions at any time: *And provided further,* That for purposes of the preceding limitation, individuals employed for Corporation construction projects under subtitle E shall not be counted.

Post, p. 665.

(e) No political test or qualification shall be used in selecting, appointing, promoting, or taking other personnel actions with respect to officers, agents, and employees of the Corporation, except as provided in section 116(a)(2).

CONFLICTS OF INTEREST AND FINANCIAL DISCLOSURE

42 USC 8714.
2 USC 701 note.

SEC. 118. (a) The financial disclosure provisions of the Ethics in Government Act of 1978 (92 Stat. 1824; Public Law 95-521) applicable to individuals occupying positions compensated under the Executive Schedule shall apply to the Directors and officers of the Corporation

and to employees of the Corporation whose position in the schedule established by the Board of Directors pursuant to section 117(b)(2) is compensated at a rate equivalent to that payable for grade GS-16 or above of the General Schedule established by chapter 53 of title 5, United States Code. The financial disclosure provisions of the Ethics in Government Act of 1978 shall apply to the Corporation as if it were a Federal agency.

5 USC 5332 note.
44 FR 58672.
2 USC 701 note.

(b) Any provision of law governing post-Federal employment activities shall not apply to former Federal employees who may be employed by the Corporation while acting on behalf of the Corporation.

(c)(1) Except as permitted by paragraph (3), no Director shall vote on any matter respecting any application, contract, claim, or other particular matter pending before the Corporation, in which, to his or her knowledge, he or she, his or her spouse, minor child, partner, or an organization (other than the Corporation) in which he or she is serving as officer, director, trustee, partner, or employee, or any person or organization with whom he or she is negotiating or has any arrangement concerning prospective employment, has a financial interest.

(2) Action by a Director contrary to the prohibition contained in paragraph (1) shall be cause for removal of such Director pursuant to section 116(b)(3), but shall not impair or otherwise affect the validity of any otherwise lawful action by the Corporation in which the Director or officer participated.

(3) The prohibition contained in paragraph (1) shall not apply if the Director first advises the Board of Directors of the nature of the particular matter in which he or she proposes to participate and makes full disclosure of such financial interest, and the Board of Directors determines by majority vote that the financial interest is too remote or too inconsequential to affect the integrity of such Director's services for the Corporation in that matter. The Director involved shall not participate in such determination.

(d) Section 207(a) of title 18, United States Code (and subsections (f), (h), and (j) of such section to the extent they relate to subsection (a)) shall apply to former Directors, officers, and employees of the Corporation as if they were former officers or employees of the executive branch of the United States Government. Such section shall apply to the Corporation as if it were an agency of the executive branch of the United States Government.

DELEGATION

SEC. 119. (a) The Board of Directors may, by resolution, delegate to the Chairman and the other Directors functions, powers, and duties assigned to the Corporation under this part other than those expressly vested in the Board of Directors pursuant to sections 116(f), 117(b), 118(c)(3), 126(a)(1)(D), 126(b), 127(c), (e), and (f), 131(a), (b), and (f), 132(a) and (d), 133(a) and (b), 134, 135(a), 136(a) and (b), 137(b) and (c), 141(a), 154, 171(a)(8) and (c), 173(a) and (b), 181(a) and (c), and 191(b). The Chairman may, only by written instrument, delegate such functions, powers, and duties as are assigned to the Chairman by or pursuant to the provisions of this part to such other full-time Directors, officers, or employees of the Corporation as the Chairman deems appropriate.

42 USC 8715.

Post, pp. 658, 660, 661, 662, 663, 665, 669, 673, 675, 680, 681.

(b)(1) Notwithstanding any other provision of law, the President and any other officer or employee of the United States shall not make any delegation to the Chairman, the Board of Directors, or the

Corporation of any power, function, or authority not expressly authorized by the provisions of this part, except where such delegation is pursuant to an authority in law which expressly makes reference to this section.

(2) Notwithstanding any other provision of law, the Reorganization Act of 1977 (5 U.S.C. 901 et seq.) shall not apply to authorize the transfer to the Corporation of any power, function, or authority.

AUTHORIZATION OF ADMINISTRATIVE EXPENSES

42 USC 8716.

SEC. 120. (a)(1)(A) The Corporation is authorized to expend during any fiscal year for—

(i) subject to paragraph (2), reasonable and necessary administrative expenses, not to exceed $35,000,000; and

(ii) subject to paragraph (4), generic studies and specific reviews of individual proposals for financial assistance, not to exceed $10,000,000.

(B) For purposes of section 122(e), and from the amount specified in subsection (a)(1)(A)(i), the Inspector General may expend not more than $2,000,000 during any fiscal year for reasonable and necessary administrative expenses.

(2) For purposes of this section, administrative expenses shall include all ordinary and necessary expenses, including all compensation for personnel and consultants, expenses for computer usage, for space needs of the Corporation and similar expenses. For each fiscal year commencing after September 30, 1980, the $35,000,000 limitation in subsection (a)(1)(A)(i) and the $2,000,000 limitation in subsection (a)(1)(B) shall be increased as of October 1 each year by an amount equal to the percentage increase in the Gross National Product implicit price deflator, as published by the Department of Commerce or its successor, for the year then ended over the level so established for the year ending September 30, 1979.

(3) Administrative expenses include reimbursement to Directors for reasonable expenses which are incurred in connection with their service as Directors of the Corporation.

(4) Expenditures authorized under subsection (a)(1)(A)(ii) shall not be available—

(A) for administrative expenses;

(B) for the reimbursement of governmental agencies for the salaries of personnel of such agencies detailed to the Corporation;

(C) to exceed the personnel limits established pursuant to section 117(d); or

(D) for operating expenses.

(b) Funds authorized for administrative expenses shall not be available for the acquisition of real property or for expenses related to Corporation construction projects pursuant to subtitle E.

Post, p. 665.

(c) The Corporation may make expenditures, without further appropriation, for reasonable and necessary administrative expenses not to exceed the limit provided in subsection (a) in any fiscal year and then only in accordance with a detailed statement of such expenditures which has been transmitted to the Congress, the Committee on Energy and Natural Resources of the Senate and the appropriate committees of the House of Representatives in accordance with the provisions of section 153 along with the President's proposed budget for such fiscal year: *Provided*, That such expenditures for fiscal years 1980 and 1981 may be made without such prior statement. It is the intention of this section that the Corporation's

Post, p. 669.

expenditures for administrative expenses shall reflect due consideration for economy and efficiency.

PUBLIC ACCESS TO INFORMATION

SEC. 121. (a) The Corporation shall make available to the public, upon request, any information regarding its organization, procedures, requirements, and activities: *Provided,* That the Corporation is authorized to withhold information which is exempted from disclosure pursuant to subsection (b) of section 552 of title 5, United States Code, and section 116(f) of this part as it pertains to minutes of meetings of the Board of Directors. 42 USC 8717.

(b) The Corporation, upon receipt of any request for information, shall determine promptly whether to comply with such request and shall promptly notify the person making the request of such determination. In the event of an adverse determination, and if requested by the person requesting the information, such determination shall be reviewed by the General Counsel of the Corporation.

(c) Section 1905 of title 18, United States Code, shall apply—

(1) to Directors, officers, and employees of the Corporation as if they were officers or employees of the United States; and

(2) to the Corporation as if it were a Federal agency.

INSPECTOR GENERAL

SEC. 122. (a)(1) In addition to the officers provided for in section 117(b)(1), there shall be in the Corporation an officer with the title of "Inspector General" who shall be appointed for a term of seven years by the President, by and with the advice and consent of the Senate, solely on the basis of integrity and demonstrated ability and without regard to political affiliation. The Inspector General shall report directly to, and be under the general supervision of, the Board of Directors, and shall not be under the control of, or subject to supervision by, any other officer of the Corporation. 42 USC 8718.

(2) Neither the Board of Directors nor any other officer or employee of the Corporation shall prevent or prohibit the Inspector General from initiating, carrying out, or completing any audit, investigation, or inspection.

(3) There shall also be in the Corporation a Deputy Inspector General who shall be appointed for a term of seven years by the President, by and with the advice and consent of the Senate, solely on the basis of integrity and demonstrated ability and without regard to political affiliation. The Deputy Inspector General shall assist the Inspector General in carrying out his duties under this section and shall, during the absence or temporary incapacity of the Inspector General, or during a vacancy in that office, act as Inspector General. Deputy Inspector General.

(4) The Inspector General or the Deputy Inspector General may be removed from office by the President only for neglect of duty, or malfeasance in office. The President shall communicate the reasons for any such removal to both Houses of Congress. Removal.

(5) The Inspector General and the Deputy Inspector General shall be compensated at a rate fixed by the Board of Directors in accordance with section 117(b)(2), which rate for the Inspector General shall be not less than the rate provided for level III of the Executive Schedule under section 5314 of title 5, United States Code, and for the Deputy Inspector General not less than the rate provided for level IV of such schedule under section 5315 of title 5, United States Code. Compensation. 44 FR 58678.

Duties.

(b)(1) It shall be the duty and responsibility of the Inspector General—

(A) to supervise, coordinate, and provide policy direction for auditing, investigative, and inspection activities relating to the promotion of economy and efficiency in the administration of, or the prevention or detection of fraud and abuse in, programs and operations of the Corporation;

(B) to determine the extent to which such programs and operations are consonant with the purposes of this title, and in compliance with the provisions of this part;

(C) to make recommendations for correcting deficiencies in, or improving, the programs and operations of the Corporation; and

(D) to keep the Board of Directors and the Congress fully and currently informed, by means of the reports required by subsections (c), (d), and (h), and otherwise, concerning problems, abuses, and deficiencies relating to the administration of programs authorized by this part, to recommend corrective action concerning such problems, abuses, and deficiencies, and to report on the progress made in implementing such corrective action.

(2) In carrying out his duties and responsibilities, the Inspector General shall give particular regard to the activities of the Comptroller General of the United States in relation to the Corporation, with a view toward avoiding duplication and insuring effective coordination and cooperation.

(3) In carrying out his duties and responsibilities, the Inspector General shall report expeditiously to the Attorney General whenever he has reasonable grounds to believe there has been a violation of Federal criminal law.

Annual reports.

(c) The Inspector General shall, not later than November 30 of each year, prepare an annual written report summarizing the activities of his office during the immediately preceding fiscal year. Each such report shall include—

(1) an identification and description of significant problems, abuses, and deficiencies relating to the administration of programs and operations of the Corporation disclosed by such activities;

(2) a description of recommendations for corrective action with respect to significant problems, abuses, or deficiencies identified and described under paragraph (1); and

(3) a summary of matters referred to law enforcement authorities and the extent to which prosecutions and convictions have resulted.

(d) The annual report of the Inspector General shall be furnished to the Board of Directors not later than November 30 of each year and shall be transmitted by the Board of Directors to the President, the Committee on Energy and Natural Resources of the Senate, and the Speaker of the House of Representatives within thirty days after the receipt of the report, together with a report by the Board of Directors containing any comments it deems appropriate. The Board of Directors shall make copies of each annual report available to the public upon request and at a reasonable cost within sixty days after its transmittal to the Congress.

Public availability.

(e) In addition to the authority otherwise provided by this section, the Inspector General, in carrying out the provisions of this section, is authorized—

(1) to have access to all records, reports, audits, reviews, documents, papers, recommendations, or other material availa-

ble to the Corporation which relate to programs and operations with respect to which the Inspector General has responsibilities under this section;

(2) to request such information or assistance as may be necessary for carrying out the duties and responsibilities provided by this section from any Federal, State, or local governmental agency or unit thereof;

(3) to require by subpena the production of all information, documents, reports, answers, records, accounts, papers, and other data and documentary evidence necessary in the performance of the functions assigned by this section, which subpena, in the case of contumacy or refusal to obey, shall be enforceable by order of any appropriate United States district court;

(4) to have direct and prompt access to the Board of Directors when necessary for any purpose pertaining to the performance of functions and responsibilities under this section;

(5) to select, appoint, and employ such employees as may be necessary for carrying out the functions, powers, and duties of the Inspector General, which employees shall be compensated in accordance with salary schedules established pursuant to section 117(b)(2);

(6) to obtain services of consultants at daily rates not to exceed the equivalent rate prescribed for grade GS-18 of the General Schedule by section 5332 of title 5, United States Code; and 44 FR 58672.

(7) to enter into contracts and other arrangements for audits, studies, analyses, and other services with public agencies and with private persons, and to make such payments as may be necessary to carry out the provisions of this section.

(f)(1) Upon request of the Inspector General for information or assistance under subsection (e)(2), the head of any Federal agency involved shall, insofar as is practicable and not in contravention of any existing statutory restriction or regulation of the Federal agency from which the information is requested, furnish to such Inspector General, or to an authorized designee, such information or assistance.

(2) Whenever information or assistance requested under subsection (e)(1) or (e)(2) is, in the judgment of the Inspector General, unreasonably refused or not provided, the Inspector General shall report the circumstances to the head of the establishment involved without delay.

(g) The Board of Directors shall make available to the Inspector General appropriate and adequate office space at offices of the Corporation.

(h) The Inspector General—

(1) may make such additional investigations and reports relating to the operations of the Corporation as are, in the judgment of the Inspector General, necessary or desirable; and

(2) shall provide such additional information or documents as may be requested by any committee or subcommittee of either House of Congress with respect to matters within their jurisdiction.

(i) Notwithstanding any other provision of law, the reports, information, or documents required by or under this section shall be transmitted to the Board of Directors and to the Congress, or committees or subcommittees thereof, by the Inspector General without further clearance or approval.

ADVISORY COMMITTEE

Establishment.
42 USC 8719.

SEC. 123. (a) There is hereby established an Advisory Committee to the Board of Directors for the purpose of—

(1) reviewing the Corporation's solicitations of proposals for financial assistance proposed for issuance pursuant to section 127; and

(2) advising the Corporation in relation to other matters within the expertise of the Advisory Committee, or any member thereof, as the Board of Directors may request of the Advisory Committee from time to time.

Membership.

(b) The Advisory Committee is composed of the Secretary of the Treasury, the Secretary of Defense, the Secretary of the Interior, the Secretary of Energy, the Administrator of the Environmental Protection Agency, and the Chairman of the Energy Mobilization Board. The Chairman of the Advisory Committee shall be designated by the President from among its members.

(c) The Advisory Committee shall meet with the Board of Directors not less than semiannually, and the Corporation shall furnish to the Advisory Committee such professional, secretarial, and other services as the Advisory Committee may request.

(d) During any meeting with the Board of Directors or in any communication with the Corporation, the members of the Advisory Committee shall be governed by the laws and regulations respecting conflicts of interest applicable to their respective departments and agencies as such laws and regulations relate to meetings with representatives of a private corporation.

SUBTITLE C—PRODUCTION GOAL OF THE CORPORATION

NATIONAL SYNTHETIC FUEL PRODUCTION GOAL

Establishment.
42 USC 8721.

SEC. 125. There is hereby established a national goal of achieving a synthetic fuel production capability equivalent to at least 500,000 barrels per day of crude oil by 1987 and of at least 2,000,000 barrels per day of crude oil by 1992, from domestic resources.

PRODUCTION STRATEGY

42 USC 8722.

SEC. 126. (a)(1) In order to assure achievement of the purposes of this title and the national synthetic fuel production goal set forth in section 125, the Corporation—

(A) shall, pursuant to section 127(a), solicit proposals for synthetic fuel projects;

(B) shall, pursuant to section 131(a), award financial assistance to those qualified concerns submitting proposals acceptable to the Board of Directors;

(C) shall, after soliciting proposals pursuant to subparagraph (A) and reviewing such proposals, if in the judgment of the Board of Directors, there are, or will be, insufficient acceptable proposals as necessary to achieve the purposes of this title, undertake to negotiate contracts pursuant to subtitle D as necessary to achieve the purposes of this title; and

(D) may, only after fulfilling the requirements of subparagraphs (A), (B), and (C), and paragraph (3), if in the judgment of the Board of Directors, there still are, or will be, insufficient acceptable proposals as necessary to achieve the purposes of this title, consistent with the objectives set forth in paragraph (2) and

subject to the limitations of subtitle E, undertake Corporation construction projects pursuant to subtitle E as necessary to achieve the purposes of this title. *Post*, p. 665.

(2)(A) Prior to the approval of a comprehensive strategy pursuant to subsection (c), the Corporation in discharging its responsibilities under paragraph (1) shall employ financial assistance pursuant to subtitle D or Corporation construction projects pursuant to subtitle E in such manner as will, in the judgment of the Board of Directors, (i) incorporate a technological diversity of processes, methods and techniques for each domestic resource that offers significant potential for use as a synthetic fuel feedstock as well as (ii) offer the potential for achieving the national synthetic fuel production goal set forth in section 125.

"Domestic resource."

(B) For the purposes of this paragraph, the term "domestic resource" shall be construed so as to require the consideration of different types and qualities of coal (such as high- and low-sulphur coal, or Eastern and Western coal), shale, and tar sands, as different domestic resources.

Publication in Federal Register.

(3) Prior to undertaking a Corporation construction project pursuant to subtitle E, the Corporation shall publish in the Federal Register its intent to undertake a Corporation construction project and the objectives of such a Corporation construction project, and shall solicit proposals to meet such objectives through the use of financial assistance mechanisms established under subtitle D. If the Corporation does not receive, within thirty days after the publication of the objectives pursuant to the preceding sentence, an acceptable notice of intent to submit a proposal, the Corporation may undertake such a Corporation construction project pursuant to subtitle E.

Comprehensive strategy, establishment.

(b)(1) Subject to the requirements of paragraph (2), the Corporation shall, consistent with the purposes of this title, establish a comprehensive strategy to achieve the national synthetic fuel production goal established by section 125. In the formulation of such comprehensive strategy, the Corporation—

(A) shall consider all practicable means for the commercial production of synthetic fuel from domestic resources, employing the widest diversity of feasible technologies; and

(B) after consultation with the Secretary of Defense, shall consider the feasibility of meeting national defense fuel requirements utilizing synthetic fuel produced pursuant to the provisions of this part.

Submittal to Congress.

(2) Subject to the requirements of paragraph (3), not later than four years after the effective date of this part, the Board of Directors shall adopt and directly submit its proposed comprehensive strategy to the Congress. Such comprehensive strategy, when approved pursuant to subsection (c), shall become the comprehensive strategy of the Corporation to achieve the national synthetic fuel production goal established by section 125.

(3) The proposed comprehensive strategy shall—

(A) to the extent feasible, set forth the recommendations of the Board of Directors on the Corporation's objectives and schedules for their achievement;

(B) directly address and give emphasis to private sector responsibilities in the efforts necessary to achieve the national synthetic fuel production goal established by section 125;

(C) specifically address how any Corporation involvement recommended in the comprehensive strategy will be expressly

limited and ultimately terminated upon a date or event certain in the future;

(D) include a financial or investment strategy prospectus which sets forth the justification for the requested authorization of appropriations;

(E) include findings, based upon accompanying comprehensive reports, regarding synthetic fuel projects which received financial assistance prior to submission of such comprehensive strategy to the Congress with respect to—

(i) the economic and technological feasibility of each such project including information on product quality, quantity, and cost per unit of production; and

(ii) the environmental effects associated with each such project as well as projected environmental effects and water requirements; and

(F) include recommendations based upon accompanying comprehensive reports concerning the specific mix of technologies and resource types which the Corporation proposes to support after approval pursuant to subsection (c) of the comprehensive strategy.

Additional authorizations.

(4) After the approval of the comprehensive strategy, the Board of Directors may request, pursuant to subsection (c)(10), additional authorizations of appropriations. Such requests shall include a financial or investment prospectus which sets forth the justification for the requested authorizations of appropriations.

Approval.

(c)(1)(A) The comprehensive strategy submitted by the Board of Directors to the Congress pursuant to subsection (b)(2) shall be deemed approved if a joint resolution of approval has been enacted into law during the same Congress in which such comprehensive strategy was submitted to the Congress. If either House of the Congress within ninety calendar days of continuous session after introduction fails to pass such a joint resolution or rejects such a joint resolution, the comprehensive strategy shall be deemed disapproved. For purposes of this subsection, the term "joint resolution" means only a joint resolution of either House of Congress as described in paragraph (5) or paragraph (10)(B).

"Joint resolution."

(B) Ninety calendar days after receipt by the Congress of the comprehensive strategy, on the first day that both Houses of the Congress are in session after such ninety-day period, a joint resolution of approval containing the authorization of appropriations requested by the Corporation for the proposed comprehensive strategy shall be introduced in their respective Houses by the Chairman of the Committee on Energy and Natural Resources of the Senate and the Majority Leader of the House of Representatives.

(C) The Corporation may withdraw the comprehensive strategy any time prior to the adoption of such joint resolution by either House of the Congress.

(2) Upon introduction, the joint resolution shall be referred immediately to the Committee on Energy and Natural Resources of the Senate and the appropriate committee or committees of the House of Representatives.

(3) For the purpose of subsection (c)(1)(A) of this section—

(A) continuity of session is broken only by an adjournment of Congress sine die at the end of the second session of a Congress; and

(B) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of the calendar-day period involved.

(4) This subsection is enacted by Congress—

(A) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions described by paragraph (5) of this subsection; and it supersedes other rules only to the extent that it is inconsistent therewith; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of the respective House.

(5) The joint resolution approving the comprehensive strategy under this part shall read as follows after the resolving clause: "That the Congress of the United States approves the comprehensive strategy submitted to the Congress by the United States Synthetic Fuels Corporation on _____ and _____ dollars are hereby authorized to be appropriated without fiscal year limitation to the Secretary of the Treasury to purchase and retain notes or other obligations of the United States Synthetic Fuels Corporation.", the first blank space therein being filled with the date and year, the second blank space therein being filled with the appropriate dollar figure.

(6)(A) If any committee to which such joint resolution with respect to the comprehensive strategy has been referred has not reported it at the end of 60 calendar days after its referral, it shall be in order to move either to discharge any such committee from further consideration of such joint resolution or to discharge any such committee from further consideration of any other joint resolution with respect to such comprehensive strategy which has been referred to such committee.

(B) A motion to discharge may be made only by an individual favoring such joint resolution, shall be highly privileged (except that it may not be made after all committees to which such joint resolution has been referred have reported a joint resolution with respect to the comprehensive strategy), and debate thereon shall be limited to not more than 1 hour, to be divided equally between those favoring and those opposing the joint resolution. Except to the extent provided in paragraph (9)(A), an amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(C) If the motion to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other joint resolution with respect to the same comprehensive strategy.

(7)(A) When all such committees have reported, or have been discharged from further consideration of, a joint resolution, it shall be at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of such a joint resolution. The motion shall be highly privileged and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

Debate, time limitation

(B) Debate on the joint resolution and all amendments thereto pursuant to paragraph (9)(A) shall be limited to not more than 10 hours and final action on the joint resolution shall occur immediately following conclusion of such debate. A motion further to limit debate shall not be debatable. Except to the extent provided in paragraph (9)(B), an amendment to, or motion to recommit such a joint resolution shall not be in order, and it shall not be in order to move to reconsider the vote by which such a joint resolution was agreed to or disagreed to.

(8)(A) Motions to postpone made with respect to the discharge from committee or the consideration of a joint resolution, shall be decided without debate.

(B) Appeals from the decision of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedures relating to a joint resolution shall be decided without debate.

(9) With respect to the comprehensive strategy—

(A) In the consideration of any such joint resolution on any such comprehensive strategy, it shall be in order to offer an amendment to the dollar figure in the second blank of the text of the joint resolution described in paragraph (5), and any amendments thereto only containing such a dollar figure. No other amendments except pro forma amendments shall be in order.

(B) If one House receives from the other House a joint resolution with respect to the comprehensive strategy, then the following procedure applies:

(i) the joint resolution of the other House with respect to such comprehensive strategy shall not be referred to a committee; and

(ii) in the case of a joint resolution of the first House with respect to such plan—

(I) the procedure with respect to that or other resolutions of such House with respect to such plan shall be the same as if no joint resolution from the other House with respect to such comprehensive strategy had been received; but

(II) on any vote on final passage of a resolution of the first House with respect to such plan a resolution from the other House with respect to such plan where the text is identical shall be automatically substituted for the joint resolution of the first House.

(10)(A) The Corporation at any time after the approval of the comprehensive strategy may submit requests pursuant to subsection (b)(4) for additional authorizations of appropriations each of which shall be in the form of a joint resolution of approval (bearing an identification number).

(B) Such joint resolution shall read as follows after the resolving clause: "That the Congress of the United States approves the request transmitted to the Congress by the United States Synthetic Fuels Corporation on _____ and there are hereby authorized to be appropriated without fiscal year limitation to the Secretary of the Treasury to purchase and retain notes or other obligations of the United States Synthetic Fuels Corporation the sum of _____ dollars.", the first blank space therein being filled with the day and year, and the second blank space therein being filled with the appropriate dollar figure.

(C) On the first day that both Houses of the Congress are in session after receipt of a joint resolution of approval containing the additional authorization of appropriations requested by the Corporation, the joint resolution described in subparagraph (B) shall be introduced in their respective Houses by the Chairman of the Committee on Energy and Natural Resources of the Senate and the Majority Leader of the House of Representatives. Such resolution shall be considered in accordance with the procedures of this subsection.

(11) The aggregate of the authorizations of appropriations under paragraph (5) enacted into law and any subsequent requests by the Corporation for additional authorizations for appropriations under paragraph (10) enacted into law shall not exceed $68,000,000,000.

(d)(1) Notwithstanding the provisions of subsection (c), if at the expiration of such time as the Corporation is permitted for submission of its comprehensive strategy to the Congress, the Corporation determines that an adequate basis of knowledge has not yet been developed upon which to formulate and implement a comprehensive strategy for the achievement of the national synthetic fuel production goal established in section 125, the Corporation shall report the reasons for such determination to the Congress, and may request, in a Corporation synthetic fuel action pursuant to section 128, such additional time up to one year as the Corporation considers necessary for the formulation of its proposed comprehensive strategy.

(2) Such request shall be deemed approved unless disapproved by either House of Congress pursuant to section 128. If such request is disapproved pursuant to section 128, the Corporation shall submit its proposed comprehensive strategy to the Congress within ninety days of such disapproval.

(3) The Board of Directors may, consistent with the purposes of this title, amend the approved comprehensive strategy if, in their judgment, such amendment is necessary to achieve the national synthetic fuel production goal set forth in section 125. If such amendment would substantially alter the use of funds previously approved by the Congress pursuant to subsection (c), the Board of Directors may not implement such amendment unless such amendment has been submitted to the Congress and has been approved pursuant to section 129. Any such amendment and its justification shall be included in the subsequent quarterly report to the Congress pursuant to section 177(c).

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SOLICITATION OF PROPOSALS

SEC. 127. (a)(1) The Corporation is hereby directed to solicit proposals from time to time from concerns interested in the construction or operation, or both, of synthetic fuel projects. The Corporation shall provide notice of such solicitations in the Federal Register and by such other notice as is customarily used to inform the public of Federal assistance for major research and development undertakings.

42 USC 8723.

(2) All proposed solicitations under paragraph (1) shall be submitted to the Advisory Committee established under section 123. The Advisory Committee shall have 30 calendar days to review and comment on such solicitations prior to their initial issuance.

(3) Within six months after the date of the enactment of this part, the Corporation shall make an initial set of solicitations directed by paragraph (1). Such set of solicitations shall encompass a diversity of technologies (including differing processes, methods, and techniques)

for each potential domestic resource as well as all of the forms of financial assistance authorized in subtitle D.

(b) All solicitations of proposals for financial assistance shall be conducted in a manner so as to encourage maximum open and free competition.

(c) Any concern may request the Board of Directors to issue a solicitation pursuant to this section for proposals for a general type of synthetic fuel project and the Board of Directors, if it deems the action to be in accordance with the purposes of this title and the provisions of this part, may issue such a solicitation.

(d) Each solicitation for proposals pursuant to the authority of this section shall set forth general evaluation criteria, as determined by the Board of Directors, taking into account—

(1) the achievement of the national synthetic fuel production goal established in section 125; and

(2) the requirements of section 126(a), for a general type of synthetic fuel project concerning—

(A) the type of domestic resource to be used by the proposed synthetic fuel project;

(B) the type or types of technologies to be employed; and

(C) the type and amount of synthetic fuel to be produced.

(e) Thirty days after the date of the enactment of this part, the Secretary of Energy, on behalf of the Corporation and pursuant to the authorities in this part, may make a solicitation for commercial scale high-Btu coal gas plants which shall be reviewed and acted upon by the Corporation pursuant to this part.

(f) The Corporation shall give priority consideration to applications for financial assistance from any concern proposing a synthetic fuel project in any State which, in the judgment of the Board of Directors, indicates an intention to expedite all regulatory, licensing, and related government agency activities related to such project.

(g) The Corporation shall consult with the Governor of any State in which a proposed Corporation construction project or a proposed joint venture project under section 136 would be located with regard to (1) the manner in which the project would be developed and (2) regulatory, licensing, and related governmental activities pertaining to such project. The States shall have the opportunity to provide written response to the Corporation on all aspects of such project development, licensing, and operation.

CONGRESSIONAL DISAPPROVAL PROCEDURE

"Corporation synthetic fuel action."
42 USC 8724.

SEC. 128. (a) For purposes of this section, the term "Corporation synthetic fuel action" means any matter required to be transmitted, or submitted to the Congress in accordance with the procedures of this section.

(b) The Corporation shall transmit any Corporation synthetic fuel action (bearing an identification number) to both Houses of the Congress on the same day. If both Houses are not in session on the day on which any Corporation synthetic fuel action is transmitted to the appropriate officers of each House, for the purposes of this section such Corporation synthetic fuel action shall be deemed to have been received on the first succeeding day on which both Houses are in session.

(c) Except as provided in subsection (e), if a Corporation synthetic fuel action is transmitted to both Houses of Congress, such Corporation synthetic fuel action shall take effect at the end of the first

period of 30 calendar days of continuous session of the Congress after the date on which such Corporation synthetic fuel action is received by such Houses, unless between the date on which such Corporation synthetic fuel action is received and the end of such 30 calendar day period, either House passes a resolution stating in substance that such House does not favor such action.

(d) For purposes of subsection (c)—

(1) continuity of session is broken only by an adjournment of the Congress sine die; and

(2) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of the 30-calendar-day period.

(e) Under provisions contained in a Corporation synthetic fuel action, any provision of such Corporation synthetic fuel action may take effect on a date later than the date on which such Corporation synthetic fuel action otherwise would take effect, if such action is not disapproved, pursuant to the provisions of this section.

(f) This section is enacted by the Congress—

(1) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such, it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions described by subsection (g) of this section, and it supersedes other rules only to the extent that it is inconsistent with such rules; and

(2) with full recognition of the constitutional right of either House to change the rules (so far as they relate to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of the House.

(g)(1) For purposes of subsection (b), the term "resolution" means only a resolution of either House of the Congress the matter after the resolving clause of which is as follows: "That the _____ does not favor the Corporation synthetic fuel action numbered ____ received by the Congress on _____, 19__.", the first blank space therein being filled with the name of the resolving House and the other blank spaces therein being appropriately filled. Any such resolution may only contain a reference to one Corporation synthetic fuel action. "Resolution."

(2) A resolution once introduced with respect to a Corporation synthetic fuel action shall immediately be referred to the Committee on Energy and Natural Resources of the Senate and to the appropriate committee or committees of the House of Representatives (and all resolutions with respect to the same Corporation synthetic fuel action shall be referred to the same committee or committees).

(3)(A) If any committee to which a resolution with respect to a Corporation synthetic fuel action has been referred has not reported it at the end of 20 calendar days after it was received by the House involved, it shall be in order to move either to discharge such committee from further consideration of such resolution or to discharge such committee from further consideration of any other resolution with respect to such Corporation synthetic fuel action which has been referred to the committee.

(B) A motion to discharge may be made only by an individual favoring the resolution, shall be highly privileged (except that it may not be made after the committee has reported a resolution with respect to the same Corporation synthetic fuel action), and debate thereon shall be limited to not more than one hour, to be divided equally between those favoring and those opposing the resolution. An

amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(C) If the motion to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other resolution with respect to the same Corporation synthetic fuel action.

(4)(A) When all committees to which the resolution was referred have reported (or have been discharged from further consideration of) a resolution, it shall be at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion shall be highly privileged and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

Debate, time limitation.

(B) Debate on the resolution referred to in subparagraph (A) of this paragraph shall be limited to not more than 5 hours, which shall be divided equally between those favoring and those opposing such resolution. A motion further to limit debate shall not be debatable. An amendment to, or motion to recommit, the resolution shall not be in order, and it shall not be in order to move to reconsider the vote by which such resolution was agreed to or disagreed to.

(5)(A) Motions to postpone made with respect to the discharge from committee or the consideration of a resolution and motions to proceed to the consideration of other business, shall be decided without debate.

Appeals.

(B) Appeals from the decision of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution shall be decided without debate.

(6) Notwithstanding any of the provisions of this subsection, if a House has approved a resolution with respect to a Corporation synthetic fuel action, then it shall not be in order to consider in that House any other resolution with respect to the same Corporation synthetic fuel action.

CONGRESSIONAL APPROVAL PROCEDURE

42 USC 8725.

SEC. 129. (a)(1) Any amendment to the comprehensive strategy submitted by the Board of Directors to the Congress pursuant to section 126(d) shall be deemed approved if a concurrent resolution of approval has been approved by the Congress during the same Congress in which such request was submitted. If the Congress, within 90 calendar days of continuous session after introduction, fails to approve such a concurrent resolution or either House of Congress rejects such a concurrent resolution, the request shall be deemed disapproved.

(2) On the first day that both Houses of Congress are in session after receipt of such amendment, a concurrent resolution of approval shall be introduced in their respective Houses by the Chairman of the Committee on Energy and Natural Resources of the Senate and the Majority Leader of the House of Representatives.

(3) The Corporation may withdraw the amendment any time prior to the adoption of such concurrent resolution by either House of the Congress.

(b) Upon introduction, the concurrent resolution shall be referred immediately to the Committee on Energy and Natural Resources of the Senate and the appropriate committee or committees of the House of Representatives.

(c) For the purpose of subsection (a)(1) of this section—

(1) continuity of session is broken only by an adjournment of Congress sine die at the end of the second session of a Congress; and

(2) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of the calendar day period involved.

(d) This subsection is enacted by Congress—

(1) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions described by subsection (e) of this section; and it supersedes other rules only to the extent that it is inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of the respective House.

(e) The concurrent resolution approving the amendment under this part shall read as follows after the resolving clause: "That the Congress of the United States approves the amendment to the comprehensive strategy submitted to the Congress by the United States Synthetic Fuels Corporation on _____.", the blank space therein being filled with the date and the year.

(f)(1) If any committee to which such concurrent resolution with respect to the amendment to the comprehensive strategy has been referred has not reported it at the end of 60 calendar days after its referral, it shall be in order to move either to discharge any such committee from further consideration of such concurrent resolution or to discharge any such committee from further consideration of any other concurrent resolution with respect to such amendment to the comprehensive strategy which has been referred to such committee.

(2) A motion to discharge may be made only by an individual favoring such concurrent resolution, shall be highly privileged (except that it may not be made after all committees to which such joint resolution has been referred have reported a concurrent resolution with respect to the request), and debate thereon shall be limited to not more than 1 hour, to be divided equally between those favoring and those opposing the concurrent resolution. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(3) If the motion to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other concurrent resolution with respect to the same amendment to the comprehensive strategy.

(g)(1) When all such committees have reported (or have been discharged from further consideration of) a concurrent resolution, it shall be at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of such a concurrent resolution. The motion shall be highly privileged and shall not be debatable. An amendment to the

motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

Debate, time limitation.

(2) Debate on the concurrent resolution shall be limited to not more than 5 hours and final action on the concurrent resolution shall occur immediately following conclusion of such debate. The 5 hours shall be equally divided between supporters and opponents of such resolution. A motion further to limit debate shall not be debatable. Except to the extent provided in subsection (i), an amendment to, or motion to recommit such a concurrent resolution shall not be in order, and it shall not be in order to move to reconsider the vote by which such a concurrent resolution was agreed to or disagreed to.

(h)(1) Motions to postpone, made with respect to the discharge from committee, or the consideration of a concurrent resolution, shall be decided without debate.

Appeals.

(2) Appeals from the decision of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedures relating to a concurrent resolution shall be decided without debate.

(i) With respect to a concurrent resolution related to an amendment to the comprehensive strategy, if one House receives from the other House a concurrent resolution with respect to such amendment, then the following procedure applies:

(1) the concurrent resolution of the other House with respect to such request shall not be referred to a committee; and

(2) in the case of a concurrent resolution of the first House with respect to such request—

(A) the procedure with respect to that or other concurrent resolutions of such House with respect to such amendment shall be the same as if no concurrent resolution from the other House with respect to such request had been received; but

(B) on any vote on final passage of a concurrent resolution of the first House with respect to such amendment a concurrent resolution from the other House with respect to such plan where the text is identical shall be automatically substituted for the concurrent resolution of the first House.

SUBTITLE D—FINANCIAL ASSISTANCE

AUTHORIZATION OF FINANCIAL ASSISTANCE

42 USC 8731.

SEC. 131. (a) Financial assistance shall be awarded to a qualified concern whose proposal is most responsive to a solicitation for proposals issued under the authority of section 127 and is most likely to advance the purposes of this title, including consideration of price and other factors. Whenever, in the judgment of the Board of Directors, it is practicable and provident to do so, the Corporation shall award financial assistance on the basis of competitive bids.

(b)(1) Subject to the limitations set forth in this part, the Corporation is authorized, upon such terms and conditions as the Board of Directors shall determine—

(A) to provide financial assistance to a qualified concern whose proposal is most responsive to a solicitation for proposals issued under the authority of section 127;

(B) with the consent of the recipient, to renew, modify, or extend such financial assistance; and

(C) in connection with the awarding of financial assistance, to require such security and collateral as the Corporation deems appropriate for the repayment of any fixed or contingent obligations to the Corporation.

(2) The proposal selected for financial assistance pursuant to any solicitation shall be that proposal which, in the judgment of the Board of Directors, is most advantageous in meeting the national synthetic fuel production goal established under section 125. Preference in such selection shall be given to—

(A) the proposal which represents the least commitment of financial assistance by the Corporation and the lowest unit production cost within a given technological process, taking into account the amount and value of the anticipated synthetic fuel products; and

(B) in determining the relative commitment of the Corporation, in decreasing order of priority—

(i) price guarantees, purchase agreements, or loan guarantees;

(ii) loans; and

(iii) joint-ventures.

(3) The Corporation shall also consider, in awarding financial assistance, among other relevant factors—

(A) the diversity of technologies (including differing processes, methods, and techniques); and

(B)(i) the potential cost per barrel or unit production of synthetic fuel from the proposed synthetic fuel project;

(ii) the overall production potential of the technology, considering the potential for replication, the extent of the resource and its geographic distribution, and the potential end use; and

(iii) the potential of the technology for complying with applicable regulatory requirements.

(4) If after a formal solicitation for competitive bids no bids are received during the period for response, or those received are not acceptable to the Board of Directors, and the Board of Directors makes a finding (A) that the synthetic fuel project is essential for the achievement of the national synthetic fuel production goal established under section 125 and the requirements of section 126(a) and (B) that competitive bids are not appropriate, the Board of Directors shall report such findings to the Committee on Energy and Natural Resources of the Senate and the Speaker of the House of Representatives and may then proceed to negotiate a contract of financial assistance for such project with a qualified concern.

Report to congressional committees.

(c) All contracts and instruments of the Corporation to provide, or providing, for financial assistance shall be general obligations of the United States backed by its full faith and credit.

(d) Subject to the conditions of any contract for financial assistance, such contract shall be incontestable in the hands of the holder, except as to fraud or material misrepresentation on the part of the holder.

(e) Any contract for financial assistance shall require the development of a plan, acceptable to the Board of Directors, for the monitoring of environmental and health related emissions from the construction and operation of the synthetic fuel project. Such plan shall be developed by the recipient of financial assistance after consultation with the Administrator of the Environmental Protection Agency, the Secretary of Energy, and appropriate State agencies.

(f) Notwithstanding the provisions of the Federal Financing Bank Act of 1973 (12 U.S.C. 2281 et seq.) or any other provision of law

(except as may be specifically provided by reference to this subsection in any Act enacted after the effective date of this part), no debt obligation which is made or committed to be made, or which is guaranteed or committed to be guaranteed by the Corporation, or which is secured in whole or in part by financial assistance provided by the Corporation, shall be eligible for purchase by, or commitment to purchase by, or sale or issuance to, the Federal Financing Bank or any Federal agency or department of the United States, except as provided in section 151.

Application.

(g) No financial assistance may be awarded unless an application therefor has been submitted to the Corporation in such manner and containing such information as the Corporation may require.

(h) The Corporation in awarding financial assistance shall give due consideration to promoting competition.

(i) Every applicant for financial assistance under this part shall, as a condition precedent thereto, consent to such examinations and reports thereon as the Corporation or its designee may require for the provisions of this part. The Corporation shall require such reports and records as it deems necessary from any recipient of financial assistance in connection with activities carried out pursuant to this part. The Corporation is authorized to prescribe the manner of keeping records by any recipient of financial assistance and the Corporation or its designee shall have access to such records at all reasonable times for the purpose of insuring compliance with the terms and conditions upon which financial assistance was awarded.

(j)(1) In no case shall the aggregate amount of financial assistance awarded or committed under this part exceed at any one time 15 per centum of the total obligational authority of the Corporation authorized under section 152—

(A) to any one synthetic fuel project, either directly or indirectly; or

(B) to any one person, including such person's affiliates and subsidiaries, either directly or indirectly.

(2) For the purpose of determining compliance with paragraph (1)(B), any financial assistance to a synthetic fuel project under this part shall be allocated among the project participants in direct proportion to each person's participation in such project.

(k)(1) Any contract for financial assistance shall specify in dollars the maximum amount of the liability of the Corporation under such contract, as computed in accordance with section 152.

Notification.

(2) The Corporation shall notify the Secretary of the Treasury of its intention to enter into a contract for financial assistance prior to the execution of such contract.

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(3) Any such contract shall be accompanied by a certification by the Secretary of the Treasury pursuant to section 195(a)(3) that sufficient unencumbered appropriations are available in the Energy Security Reserve to satisfy the obligation of the contract.

(l) With regard to a synthetic fuel project proposed by a concern whose rates are regulated, or with regard to a synthetic fuel project the management of which proposes to sell synthetic fuels to a person whose rates for the use or transportation of such fuels are regulated, the Corporation is authorized to consider as a factor in any decision to award financial assistance whether the regulatory body, or bodies, are likely to issue a ratemaking decision which will protect the financial interests of the investors and the Corporation.

(m) For the purposes of determining (1) the total costs of the synthetic fuel project for sections 132 and 133, and (2) the total costs of

the synthetic fuel project module for section 136, any real or personal property or services obtained for the facility in a transaction with any person or concern (including an affiliated company as defined in section 2(a)(2) of the Investment Company Act of 1940 (15 U.S.C. 80a-2(a)(2)) and an affiliated person as defined in section 2(a)(3) of such Act (15 U.S.C. 80a-2(a)(3))) who has, or will have, an ownership or profit interest in the facility shall be valued at the lower of the cost to the project or fair market value, disregarding any portion of such fair market value which is attributable to the prospect of receiving financial assistance under this part.

(n) The Corporation, as a condition to providing financial assistance, other than loans pursuant to section 132 and loan guarantees pursuant to section 133, may require that the Corporation share in profits from the operation of a synthetic fuel project on a fair basis.

(o) Whenever the Corporation, by one or more actions, awards a combination of two or more forms of financial assistance for a single synthetic fuel project, the Corporation shall insure that the recipient of such financial assistance shall bear a reasonable degree of risk in the construction and operation of such project: *Provided, however,* That any person who is solely in the position of a lender shall not be required to bear such risk. The Corporation shall not award more than a single form of financial assistance under this part unless the Board of Directors determines that multiple forms of financial assistance are required for the viability of the project, and further, that the project is necessary to achieve the purposes of this title and the provisions of this part.

(p) The Corporation shall not award financial assistance in the form of loans pursuant to section 132 or joint ventures pursuant to section 136 unless the Board of Directors determines that neither price guarantees, purchase agreements, nor loan guarantees will adequately support the construction and operation of the synthetic fuel project or will restrict the available participants for such project.

(q) The Corporation, in consultation with the Secretary of the Treasury, shall insure to the maximum extent feasible that the timing, interest rate, and substantial terms and conditions of any financial assistance will have the minimum possible impact on the capital markets of the United States, taking into account Federal activities which directly or indirectly influence such capital markets. Additionally, the Corporation shall impose such terms and conditions on any financial assistance (after evaluating the financing of the synthetic fuel project, the tax benefits which would be available to investors in the synthetic fuel project, and any regulatory actions associated with the synthetic fuel project) as may be necessary to assure that any investors having an ownership or profit interest in the synthetic fuel project bear a substantial risk of after tax loss in the event of any default or other cancellation of the synthetic fuel project.

(r) The Corporation shall insure that financial assistance awarded under this part for (1) loans pursuant to section 132, (2) loan guarantees pursuant to section 133, (3) joint ventures pursuant to section 136, or (4) any combination of forms of financial assistance including one or more of the aforementioned forms, in the judgment of the Board of Directors, encourages and supplements, but does not compete with or supplant, any private capital investment which otherwise would be available to a proposed synthetic fuel project on reasonable terms and conditions which would permit such project to be undertaken. To that end, the Corporation shall establish internal

procedures, standards and criteria for the timely review for compliance with such requirement of each new award of financial assistance for a specific proposed synthetic fuel project and, further, the Board of Directors shall determine, in its judgment, that any financial assistance by the Corporation for the project will not compete with nor supplant such available private capital investment and that adequate financing for the project would not otherwise be available to a proposed synthetic fuel project on reasonable terms and conditions which would permit such project to be undertaken.

(s) Any price guarantee pursuant to section 134 or purchase agreement pursuant to section 135 shall include an express provision to the effect that the price guarantee or purchase agreement shall be the subject of review and possible renegotiation, pursuant to section 131(b)(1)(B), within ten years from the date of initial production by the synthetic fuel project, at which point the Corporation shall specifically determine the need for continued financial assistance pursuant to such price guarantee or purchase agreement.

(t) The Corporation shall, in its determination of the need for financial assistance awarded pursuant to this part, take into consideration (1) any specific tax credit directly associated with a synthetic fuel project, (2) any financial assistance that has been or will be provided by Federal or State agencies, and (3) the potential revenues generated by the project from the production of non-synthetic fuel products.

Cost sharing agreements.

(u)(1) The Corporation is authorized to enter into cost-sharing agreements with applicants for financial assistance to refine the design of proposed synthetic fuel projects so as to improve the accuracy of the preliminary total estimated costs upon which financial assistance in the form of loans and loan guarantees will be based. In the event of an award of a loan or loan guarantee, the Corporation's share of any such cost-sharing agreement shall be incorporated in such loan or loan guarantee.

(2) Such cost-sharing agreements shall not exceed 1 percent of the preliminary total estimated cost of the applicant's proposed synthetic fuel project.

(3) The Corporation is authorized to expend not to exceed 1 percent of the aggregate obligational authority under section 151 for cost-sharing agreements under this subsection.

LOANS MADE BY THE CORPORATION

42 USC 8732.

SEC. 132. (a)(1) Subject to the limitations set forth in paragraphs (2) and (3), the Corporation is authorized, on such terms and conditions as the Board of Directors may prescribe, to commit to, or enter into, loans to any concern for a synthetic fuel project.

(2)(A) Subject to the limitation contained in subparagraph (B), loans under this section shall not exceed 75 per centum of the initial total estimated cost of the synthetic fuel project, as estimated by the Corporation as of the date of the loan or commitment to loan.

(B) Any loan under this section shall be limited to the lesser of 49 per centum of the initial total estimated cost or not more than a minority financial position in the project, unless the Board of Directors determines that the borrower has satisfactorily demonstrated that the limits established in this subparagraph would prevent the financial viability of the proposed project and therefore additional loan assistance is necessary.

(3) In the event the total cost of the project are thereafter estimated by the Corporation to exceed the total cost estimated under paragraph (2), the Corporation may, upon application therefor, lend additional amounts as follows:

(A) up to 50 per centum of the difference between the revised total estimated cost and the initial total estimated cost under paragraph (2): *Provided,* That the revised total estimated cost does not exceed 200 per centum of the initial total estimated cost under paragraph (2); and

(B) if the revised total estimated cost exceeds 200 per centum of the initial total estimated cost, up to 40 per centum of the amount in excess of 200 per centum of the initial total estimated cost, except that if the revised total estimated cost exceeds 250 per centum of the initial total estimated cost the Corporation shall not award such additional amounts unless the Corporation has transmitted to the Congress a Corporation synthetic fuel action pursuant to section 128, and such Corporation synthetic fuel action has not been disapproved.

(4) The per centum specified in the exception contained in paragraph (3)(B) shall be computed based upon the initial total estimated cost of the project adjusted to include any increase or decrease pursuant to an appropriate construction price index for the type of construction involved.

(b) Each loan made under this section shall bear interest at such rate as the Corporation may determine, giving consideration to the needs and capacities of the recipient and the prevailing rates of interest (public and private): *Provided,* That such rate shall not be less than a rate determined by the Secretary of the Treasury, for the Corporation, taking into consideration the current average yield on outstanding marketable obligations of the United States with remaining periods of maturity comparable to the average maturities of such loans. No loan shall be made unless the Corporation shall have determined that there is a reasonable prospect of repayment or that successful completion and operation of the synthetic fuel project will have a substantial value in helping to meet the national synthetic fuel production goal established under section 125. Interest rate.

(c) Loans may be made either directly or in cooperation or participation with banks or other lenders. Loans may be made directly upon promissory notes or other evidence of indebtedness or by way of discount or rediscount of obligations tendered for the purpose.

(d) If the Board of Directors determines that the borrower is unable to meet payments under a loan agreement and is not in default, it is in the public interest to permit the borrower to continue to pursue the purposes of the synthetic fuel project, and the probable net benefit to the Corporation in forbearing from exercising its rights under a loan agreement will be greater than that which would result in the event of a default, and if the borrower agrees to make such payments to the Corporation on terms and conditions, including interest, which are satisfactory to the Corporation, then the Corporation may forbear from exercising its rights under the loan agreement.

(e) No loan under this section shall have a maturity date of more than 30 years or the useful life of the synthetic fuel project involved, whichever is less. Maturity date.

LOAN GUARANTEES MADE BY THE CORPORATION

42 USC 8733.

SEC. 133. (a)(1) Subject to the limitations set forth in paragraphs (2) and (3), the Corporation is authorized, on such terms and conditions (including the right of subrogation) as the Board of Directors may prescribe, to commit to, or enter into loan guarantees against loss of principal and interest on bonds, notes, or other obligations (including refinancing thereof) issued solely to provide funds to any concern for a synthetic fuel project.

(2) Loan guarantees under this section shall not exceed 75 per centum of the initial total estimated cost of the synthetic fuel project, as estimated by the Corporation as of the date of the guarantee or commitment to guarantee.

(3) In the event that the total cost of the project are thereafter estimated by the Corporation to exceed the total cost estimated under paragraph (2), by the Corporation, the Corporation may, upon application therefor, guarantee additional amounts as follows:

(A) up to 50 per centum of the difference between the revised total estimated cost and the initial total estimated cost under paragraph (2): *Provided,* That the revised total estimated cost does not exceed 200 per centum of the initial total estimated cost under paragraph (2); and

(B) if the revised total estimated cost exceeds 200 per centum of the initial total estimated cost, up to 40 per centum of the amount in excess of 200 per centum of the initial total estimated cost, except if the revised total estimated cost exceeds 250 per centum of the initial total estimated cost, the Corporation shall not award such additional amounts unless the Corporation has transmitted to the Congress a Corporation synthetic fuel action pursuant to section 128 and such Corporation synthetic fuel action has not been disapproved pursuant to such section.

(C) The per centum specified in the exception contained in subparagraph (B) shall be computed based upon the initial total estimated cost of the project adjusted to include any increase or decrease pursuant to an appropriate construction price index for the type of construction involved.

(4) The Corporation, in reviewing the need for financial assistance pursuant to applications for loan guarantees, shall consider whether the concern or concerns making such application otherwise would be unable, exercising prudent business judgment, as determined by the Board of Directors, to finance the synthetic fuel project, taking into account among other factors, the availability of debt financing under normal lending criteria based on the assets associated with the project.

(5) Any loan guarantee made by the Corporation under this section shall not be terminated, canceled, or otherwise revoked, except in accordance with the terms thereof, and shall be conclusive evidence that such loan guarantee complies fully with the provisions of this part and of the approval and legality of the principal amount, interest rate, and all other terms of the securities, obligations, or loans and of the guarantee.

(6) The Corporation is authorized pursuant to paragraph (1) to award loan guarantees to any concern with a partial interest in a synthetic fuel project.

(b) If the Board of Directors determines that—

(1) the borrower is unable to meet payments and is not in default; it is in the public interest to permit the borrower to

continue to pursue the purposes of such project; and the probable net benefit to the Corporation in paying the principal and interest due under a loan guarantee agreement will be greater than that which would result in the event of a default;

(2) the amount of any payment which the Corporation would be required to pay shall be no greater than the amount of principal and interest which the borrower is obligated to pay at that time; and

(3) the borrower agrees to reimburse the Corporation for such payment on terms and conditions, including interest, which are satisfactory to the Corporation,

then the Corporation is authorized to pay the lender under a loan guarantee agreement, an amount not greater than the principal and interest which the borrower is obligated to pay and which the Corporation has guaranteed under such agreement.

(c) No loan guaranteed under this section shall have a maturity date of more than 30 years or the useful life of the synthetic fuel project involved, whichever is less. Maturity date.

PRICE GUARANTEES MADE BY THE CORPORATION

SEC. 134. The Corporation is authorized, on such terms and conditions as the Board of Directors may prescribe, to commit to, or enter into, price guarantees providing that the price that a concern will receive for all or part of the production from a synthetic fuel project shall not be less than a specified sales price determined as of the date of execution of the commitment or the price guarantee: *Provided,* That no such price guarantee may be based upon a "cost plus" arrangement or variant thereof which guarantees a profit to the concern, except that the use of a "cost of service" pricing mechanism by a concern pursuant to law, or by a regulatory body establishing rates for a regulated concern, shall not be deemed to be a "cost plus" arrangement or variant thereof: *Provided further,* That if the Corporation determines in its sole discretion that such project would not otherwise be satisfactorily completed or continued and that completion or continuation of such project would be necessary to achieve the purposes of this title, the sales price set forth in the price guarantee may be renegotiated. In awarding financial assistance under this section, the Corporation shall establish such specified sales price at the level which will provide the minimum subsidy determined by the Board of Directors to be necessary to provide an adequate incentive, in light of projected prices of competing fuels and the requirements for economic and financial viability of the synthetic fuel project. 42 USC 8734.

PURCHASE AGREEMENTS MADE BY THE CORPORATION

SEC. 135. (a) The Corporation is authorized, on such terms and conditions as the Board of Directors may prescribe, to commit to, or enter into purchase agreements for all or part of the production from a synthetic fuel project. The sales price specified in a purchase agreement shall not exceed the estimated prevailing market price as of the date of delivery, as determined by the Secretary of Energy, unless the Corporation determines that such sales price must exceed such estimated prevailing market price in order to insure the production of synthetic fuel to achieve the purposes of this title. 42 USC 8735.

(b) The Corporation in entering into, or committing to enter into a purchase agreement shall require—

(1) assurance that the quality of the synthetic fuel purchased meets standards for the use for which such fuel is purchased;

(2) assurances that the ordered quantities of such fuels are delivered on a timely basis; and

(3) such other assurances as may reasonably be required.

(c) Each purchase agreement, or commitment to enter into a purchase agreement, shall provide that the Corporation retain the right to refuse delivery of the synthetic fuel involved upon such terms and conditions as shall be specified in the purchase agreement.

(d) The Corporation is authorized to take delivery of synthetic fuel pursuant to a purchase agreement and, subject to section 172(d), to sell such synthetic fuel. In any case in which the Corporation accepts delivery of and does not sell such synthetic fuel to a person, such synthetic fuel may be purchased by the Federal Government for use by an appropriate Federal agency. Such Federal agency shall pay the prevailing market price, as determined by the Secretary of Energy, for the product which such synthetic fuel is replacing from sums appropriated to such Federal agency for the purchase of fuel.

(e) The Corporation is authorized to transport and store and have processed and refined any synthetic fuel obtained pursuant to a purchase agreement under this section.

JOINT VENTURES BY THE CORPORATION

42 USC 8736.

SEC. 136. (a) Prior to the approval of a comprehensive strategy pursuant to section 126(c), the Corporation is authorized, on such terms and conditions as the Board of Directors may prescribe, to commit to, or to enter into joint ventures for synthetic fuel project modules. In the selection of a concern or concerns for a joint venture and in the negotiation of a joint venture agreement pursuant to this section, the Corporation may, to the extent that the Corporation does not have available sufficient capability for evaluation or management of the proposed joint venture, utilize personnel of the Department of Energy, pursuant to section 171(a)(9), to the extent that such personnel have technical expertise related to the technical matters associated with such selection and negotiation. In a joint venture the Corporation may undertake the construction and operation of a synthetic fuel project module only by contract: *Provided, however,* That the Corporation shall not finance more than 60 per centum of the total costs of the synthetic fuel project module, as estimated by the Corporation as of the date of execution of the joint venture agreement.

(b) Any joint venture shall be restricted to a synthetic fuel project module which, in the judgment of the Board of Directors, will—

(1) demonstrate the commercial feasibility of a technology for the production of synthetic fuel from a significant domestic resource which offers potential for achievement of the national synthetic fuel production goal set forth in section 125; and

(2) can, at the same site, be expanded into a synthetic fuel project.

(c) With regard to any joint venture, the initial contract may provide for purchase pursuant to such joint venture agreement of the equity interest of the Corporation in such joint venture by the participating concern, or concerns, after an appropriate interval, not to exceed five years after the date of operation of a synthetic fuel project module. The purchase price set forth in the joint venture agreement shall be established by the Board of Directors: *Provided,*

That if such purchase from the Corporation is not provided for in the initial joint venture agreement or is not exercised by such concern, or concerns, the Corporation, after an appropriate interval, not to exceed five years after the date of operation of a synthetic fuel project module pursuant to a joint venture agreement, shall dispose of its participation in such agreement pursuant to section 181.

(d)(1)(A) For the purposes of this section, the term "synthetic fuel project module" means any facility located in the United States which— "Synthetic fuel project module."

(i) is of a size smaller than a synthetic fuel project;

(ii) will, if successful, demonstrate the technical and economic feasibility of the commercial production of synthetic fuels; and

(iii) can eventually be expanded at the same site into a synthetic fuel project.

(B) Such term may include the necessarily related transportation or other facilities, equipment, plant, machinery, supplies, other materials, land, and mineral rights as described in section 112(18), (including all limitations and requirements in section 112(18)) associated with a synthetic fuel project module.

(2) For purposes of this section, the term "joint venture" means an agreement under which the Corporation and one or more persons participate in construction and operation of a synthetic fuel project module: *Provided,* That the interest of the Corporation in such joint venture shall be in proportion to the relative contribution of the Corporation to the joint venture. "Joint venture."

(e) The Corporation participation in any joint venture pursuant to this section shall be limited to financial participation only and shall not include any direct role in the construction or operation of the module, other than as provided in subsection (f). Additionally, the Corporation's participation in any joint venture shall, pursuant to partnership law applicable to such joint venture, be limited to limited partnership status.

(f)(1) Nothing in this section shall prohibit the Corporation from negotiating, as part of the joint venture agreement pursuant to this section, such participation of the Corporation in the management decisions of the joint venture as the Board of Directors deems appropriate and necessary pursuant to the Corporation's financial interest in the joint venture.

(2) In no event, however, shall the persons in the joint venture agreement be denied the primary responsibility for management of the joint venture. The Corporation shall be liable only to the extent of its contractual commitment to contribute capital to the venture. No additional liability shall ensue even if, and to the extent that, the Corporation were to assume a role which might be construed to constitute the role of a general partner.

CONTROL OF ASSETS

SEC. 137. (a) The Corporation may acquire or retain control of a synthetic fuel project only— 42 USC 8737.

(1) by foreclosure of a security interest or pursuant to a default under any financial assistance contract;

(2) pursuant to section 136 or subsection (b) of this section; or

(3) pursuant to subtitle E.

(b) The Corporation may acquire control of a synthetic fuel project which, prior to the approval of the comprehensive strategy pursuant

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to section 126(c), is the subject of financial assistance under this part under the following circumstances:

(1) substantial progress has been made toward completion of the construction and operation of such project and the Board of Directors determines that such project will not commence operation, or will cease operation unless acquired by the Corporation;

(2) the operation of such project will make a significant contribution toward achieving the purposes of this title;

(3) such acquisition of control will not result in losses to the Corporation disproportionate to the benefits that operation of the project will produce in demonstrating a particular technology;

(4) failure of the Corporation to acquire such project would result in a greater financial liability of the Corporation than acquisition of the project by the Corporation; and

(5) with respect to projects subject to loans or loan guarantees, the Board of Directors determines that the concern is in default or immediately will go into default:

Provided, That the Corporation may not acquire any such control until it has submitted a plan for such acquisition to the President and the President approves such plan and transmits, with respect to such plan, a Corporation synthetic fuel action pursuant to section 128 and such Corporation synthetic fuel action has not been disapproved pursuant to such section: *Provided further*, That completion of the construction or operation of any such project, the control of which was acquired pursuant to this subsection, may only be undertaken by contract: *Provided additionally*, That authorities in this subsection shall not be available for synthetic fuel projects which are the subject of price guarantees or purchase agreements.

(c) With respect to a synthetic fuel project subject to a loan or loan guarantee where the Corporation acquires control pursuant to subsection (b), the Corporation, on such terms and conditions as the Board of Directors may prescribe, is authorized to lease back to the concern involved such synthetic fuel project where such lease will assure the production of synthetic fuels from such project consistent with the purposes of this title: *Provided*, That the Corporation may not lease back such a project until it has submitted a plan regarding such lease-back to the President and the President approves such plan and transmits, with respect to such plan, a Corporation synthetic fuel action pursuant to section 128 and such Corporation synthetic fuel action has not been disapproved pursuant to such section.

(d) For the purposes of this section, the term—

"Operating asset."

(1) "operating asset" means any real or personal property used in the synthetic fuel project; and

"Control."

(2) "control" means the power to direct the use or disposition of operating assets of the synthetic fuel project through (A) direct ownership; or (B) ownership of the majority of the voting securities of a corporation or other concern which (i) owns or (ii) leases a synthetic fuel project: *Provided*, That "control" shall not be deemed to result from the ownership of operating assets of a synthetic fuel project which are leased back in accordance with subsection (c).

(e) Any control of synthetic fuel projects obtained pursuant to subsection (b) or (c) must be disposed of within not more than five years after the date of the acquisition of such control.

UNLAWFUL CONTRACTS

SEC. 138. Sections 431 and 432 of title 18, United States Code, shall apply to all contracts, instruments, or agreements of the Corporation, other than those contracts, instruments, or agreements of the Corporation which are exempted from the application of such sections by section 433 of such title, as if the Corporation were an agency of the United States. Such contracts, instruments, or agreements include financial assistance, advances, discounts and rediscounts, acceptances, releases, and substitution of security, together with extensions or renewals thereof. 42 USC 8738.

FEES

SEC. 139. (a) The Corporation may charge and collect fees in connection with the financial assistance provided pursuant to this part: *Provided*, That such fees shall not exceed 1 per centum of the amount of such financial assistance. Fees received by the Corporation may be applied against the administrative expenses of the Corporation related to providing financial assistance and probable losses. 42 USC 8739.

(b) The Corporation shall prescribe and collect an annual fee in connection with each loan guarantee provided pursuant to this part of one-half of 1 per centum of the amount of such loan guarantee. Sums realized from such loan guarantee fees shall be deposited in the Energy Security Reserve and shall be used solely to meet obligations arising from default by a recipient of financial assistance under this part.

DISPOSITION OF SECURITIES

SEC. 140. The Corporation shall, as soon as practicable, sell in public or private transactions all or any part of the notes, bonds, or any other evidences of indebtedness (except for the instrument of indebtedness received by the Corporation for any loan pursuant to section 132) of any other person ownership of which is acquired by the Corporation pursuant to this part: *Provided*, That, in the case of joint ventures pursuant to section 136 and Corporation construction projects, any contract by the Corporation in connection therewith shall provide for the disposition, as soon as practicable, of any notes, bonds, or other evidences of ownership acquired by the Corporation pursuant to this part. 42 USC 8740.

SUBTITLE E—CORPORATION CONSTRUCTION PROJECTS

CORPORATION CONSTRUCTION AND CONTRACTOR OPERATION

SEC. 141. (a) Subject to the requirements of section 126(a)(1)(D), section 126(a)(3), and section 142, the Corporation is authorized to own synthetic fuel projects, and the Corporation shall contract for the construction and operation of any such synthetic fuel project (hereinafter referred to as a "Corporation construction project"): *Provided*, That, prior to the approval of a comprehensive strategy pursuant to section 126(c), the Corporation may undertake such projects only if, in the judgment of the Board of Directors, the Corporation construction project is necessary to meet the objectives of section 126(a)(2) and would not otherwise be constructed with financial assistance awarded under subtitle D. 42 USC 8741. *Ante*, p. 644.

(b) The power of the Corporation to own and contract for the construction and operation of a Corporation construction project shall include, among other things, the authority to—

(1) take delivery of synthetic fuel from such project;

(2) transport and store and have processed and refined such synthetic fuel;

(3) subject to section 172(d), sell such synthetic fuel to a person; and

(4) take all actions reasonably necessary therewith: *Provided*, That to the maximum extent feasible, the Corporation shall utilize the private sector for the activities associated with this subsection.

(c) Contracts for Corporation construction projects shall be negotiated on the basis of solicited bids pursuant to section 127: *Provided*, That any such contracts shall be expressly contingent upon the availability of sufficient funds.

(d) If, after undertaking a Corporation construction project, the Board of Directors determines that the total revised estimated cost of such Corporation construction project will exceed the initial estimated cost specified in the contract pursuant to subsection (c), the Board of Directors may, in its sole discretion, amend, modify, or renegotiate such contract to cover such additional costs; except that, if the revised estimated cost exceeds 175 per centum of the initial estimated cost, the Corporation shall not make such amendment, modification, or renegotiation unless the Corporation has transmitted to the Congress a Corporation synthetic fuel action pursuant to section 128 and such Corporation synthetic fuel action has not been disapproved.

(e) The Corporation is authorized to undertake contractual agreements with, among others, any Federal department or agency (including the Department of Energy, the United States Army Corps of Engineers, and the Tennessee Valley Authority) to provide the design, the construction, or the management of the operation of Corporation construction projects: *Provided*, That in the case of a Federal department or agency, such department or agency has the available, experienced personnel to perform such project management function.

LIMITATIONS ON CORPORATION CONSTRUCTION PROJECTS

42 USC 8742.
Ante, p. 644.

SEC. 142. (a) Prior to the approval of a comprehensive strategy pursuant to section 126(c), the Corporation is authorized not more than three Corporation construction projects subject to the requirements of sections 126(a)(1)(D) and 141.

(b) After the approval of a comprehensive production strategy pursuant to section 126(c), the Corporation shall not undertake any new, or expand any existing, Corporation construction project.

ENVIRONMENTAL, LAND USE, AND SITING MATTERS

42 USC 8743.

SEC. 143. (a) Corporation construction projects and joint ventures by the Corporation pursuant to section 136 shall be subject to all Federal and nondiscriminatory State and local environmental, land use, and siting laws to the same extent as such laws apply to privately sponsored synthetic fuel projects receiving financial assistance under this part and other similarly situated and used property.

(b) Contracts for the construction or operation of any Corporation construction project shall provide for the monitoring of the environmental and health related emissions from the construction and operation of such project. Such monitoring shall be conducted in accordance with a plan developed by the contractor after consultation with the Administrator of the Environmental Protection Agency and the Secretary of Energy.

PROJECT REPORTS

SEC. 144. Within three years of the initial operation of each Corporation construction project, the Corporation shall publish a report providing detailed information including— Publication. 42 USC 8744.

(1) whether the synthetic fuel product can be sold at a price which is competitive with imported crude oil;

(2) whether such technology can be operated on a commercial scale in compliance with applicable environmental requirements, including the Federal Water Pollution Control Act (33 U.S.C. 1151-1175) and the Clean Air Act (42 U.S.C. 7400 et seq.);

(3) the effect on regional and local water supplies of the project and the commercial operation of such technology;

(4) the health effects on workers and other persons of the project including any carcinogenic effects; and

(5) the social and economic impacts on local communities which were most directly affected by such project.

FINANCIAL RECORDS

SEC. 145. Recipients of contracts under this subtitle shall keep such records and other pertinent documents as the Corporation shall prescribe, including records which fully disclose the disposition of the proceeds of such assistance, the cost of any Corporation construction project and such other records as the Corporation may require to facilitate an effective audit. The Corporation and the Comptroller General of the United States or their duly authorized representatives shall have access, for the purpose of audit, to such records and other directly pertinent documents. 42 USC 8745. Accessibility.

SUBTITLE F—CAPITALIZATION AND FINANCE

OBLIGATIONS OF THE CORPORATION

SEC. 151. (a)(1) Subject to the limitations in section 152 and to the extent provided in advance in appropriation Acts, the Corporation is authorized to issue, solely to the United States of America acting by and through the Secretary of the Treasury (who shall purchase within five days of each such issuance and retain), notes or other obligations of the Corporation in the aggregate principal amount of $20,000,000,000— 42 USC 8751.

(A) plus such sums as are authorized pursuant to section 126; and

(B) less such sums—

(i) as are obligated for purposes of carrying out the provisions of section 305 of the Defense Production Act of 1950 before the date determined under section 305(k)(1) of the Defense Production Act of 1950 or are required to be retained as a reserve against a contingent obligation in- *Ante*, p. 619.

curred before such date under such section, up to a maximum of $3,000,000,000; and

(ii) as are obligated from the Energy Security Reserve by the Department of Energy pursuant to the Federal Nonnuclear Energy Research and Development Act of 1974 (Public Law 93-577; 42 U.S.C. 5901 et seq.), up to a maximum of $2,208,000,000.

(2) Such aggregate principal amounts shall become available to the Corporation upon the date of enactment of this part or under paragraph (1)(A) upon satisfying the requirements of section 126.

Ante, p. 644.

(b) The Corporation shall not issue any note or other obligation to the Secretary of the Treasury without prior consultation with the Secretary of the Treasury.

LIMITATIONS ON TOTAL AMOUNT OF OBLIGATIONAL AUTHORITY

42 USC 8752.

SEC. 152. (a) The Corporation may not incur obligations or make commitments, including administrative expenses pursuant to section 120 and operating expenses, in excess of the aggregate principal amount of $20,000,000,000—

(1) plus such sums, if any, as are authorized pursuant to section 126; and

(2) less such sums—

(A) as are obligated for purposes of carrying out section 305 of the Defense Production Act of 1950 before the date determined under section 305(k)(1) of the Defense Production Act of 1950 or are required to be retained as a reserve against a contingent obligation incurred before such date under such section, up to a maximum of $3,000,000,000; and

Ante, p. 619.

(B) as are obligated from the Energy Security Reserve by the Department of Energy pursuant to the Federal Nonnuclear Energy Research and Development Act of 1974 (Public Law 93-577; 42 U.S.C. 5901 et seq.) up to a maximum of $2,208,000,000.

(b)(1) For purposes of determining the Corporation's compliance with this section—

(A) loans shall be counted at the initial face value of the loan plus such amounts as are subsequently obligated pursuant to section 132(a)(3);

(B) loan guarantees shall be counted at the initial face value of such loan guarantee (including any amount of interest which is guaranteed under such loan guarantee) plus such amounts as are subsequently obligated pursuant to section 133(a)(3);

(C) price guarantees and purchase agreements shall be valued by the Corporation as of the date of each such contract, based upon the Corporation's estimate of its maximum potential liability;

(D) joint ventures and Corporation construction projects shall be valued at the current estimated cost to the Corporation, as determined annually by the Corporation; and

(E) any increase in the liability of the Corporation pursuant to any amendment or other modification to a contract for a loan, loan guarantee, price guarantee, purchase agreement, joint venture, or Corporation construction project shall be counted.

(2) Determinations made under paragraph (1) shall be made in accordance with generally accepted accounting principles, consistently applied.

(3) If more than one form of financial assistance is to be provided to any one synthetic fuel project or if the financial assistance agreement provides a right to the Corporation to purchase the synthetic fuel project, then the obligations and commitments thereunder shall be valued at the maximum potential exposure on such project at any time during the life of such project.

(c) Any commitment by the Corporation to provide financial assistance or make capital expenditures which is nullified or voided for any reason shall not be considered in the aggregate for the purpose of subsection (a).

BUDGETARY TREATMENT

SEC. 153. The obligations and outlays incurred by the Secretary of the Treasury in connection with the purchase of notes and other obligations of the Corporation shall be included in the totals of the Budget of the United States Government. The receipts and disbursements of the Corporation in the discharge of its functions shall be presented annually in the Budget of the United States Government but shall not be included in the totals of the Budget. 42 USC 8753.

RECEIPTS OF THE CORPORATION

SEC. 154. (a) Subject to the limitations contained in section 152, moneys of the Corporation, other than those received pursuant to sections 139(b) and 151, shall be used to defray administrative expenses and, to the extent that surplus is available thereafter, to provide financial assistance pursuant to subtitle D. In the event that additional surplus is available thereafter such additional surplus shall, when authorized by the Board of Directors, be used in the purchase for redemption and retirement of any notes or other obligations of the Corporation. 42 USC 8754.

(b) Moneys of the Corporation not otherwise employed shall be—

(1) deposited with the Treasury of the United States subject to withdrawal by the Corporation by check drawn on the Treasury of the United States by a Treasury disbursing officer; or

(2) with approval of the Secretary of the Treasury, deposited in any Federal Reserve bank.

(c) In the event that moneys of the Corporation, including moneys received pursuant to sections 139(b) and 151, exceed the limitation set forth in section 152, such surplus shall be deposited as miscellaneous receipts in the general fund of the Treasury of the United States.

(d) Not later than 10 calendar days after the end of each fiscal quarter, the Corporation shall submit a written report to the Secretary of the Treasury detailing all moneys received by the Corporation during the previous fiscal quarter. Such reports shall be incorporated in the quarterly and annual reports required under section 177. Report.

TAX STATUS

SEC. 155. (a) The Corporation, its franchise, capital, reserves, surplus, income, and intangible property shall be exempt from all taxation now or hereafter imposed by the United States, or by any State, county, municipality, or local taxing authority, except that— 42 USC 8755.

(1) any real property owned in fee by the Corporation shall be subject to State, territorial, county, municipal, or other local taxation to the same extent, according to its value, as other

similarly situated and used real property, without discrimination in the valuation, classification, or assessment thereof;

(2) the Corporation and its employees shall be subject to any nondiscriminatory payroll and employment taxes intended to finance benefits based upon employment (such as social security and unemployment benefits) to the same extent as any privately owned corporation; and

(3) with respect to any Corporation construction project undertaken pursuant to subtitle E, the Corporation shall be subject to any nondiscriminatory tax levied or imposed by any State, county, municipality, or local taxing authority on—

(A) the extraction or severance of minerals owned or leased by the Corporation; and

(B) the purchase or lease of tangible personal property.

(b) With respect to any loan or debt obligation which is (1) issued after the enactment of this part by, or on behalf of, any State or any political subdivision or governmental entity thereof, (2) guaranteed or otherwise secured by the Corporation prior to the approval of a comprehensive strategy under section 126(c), and (3) not supported by the full faith and credit of the issuer as a general obligation of the issuer, the interest paid on such obligation and received by the purchaser thereof (or the purchaser's successors in interest) shall be included in gross income for the purposes of chapter 1 of the Internal Revenue Code of 1954: *Provided,* That with respect to the amount of such obligations that the issuer would have been able to issue as tax exempt obligations (other than obligations secured by the full faith and credit of the issuer as a general obligation of the issuer), the Corporation is authorized to pay only to the issuer any portion of the interest on such obligations, as determined by the Secretary of the Treasury after taking into account the interest rate which would have been paid on the obligations had they been issued as tax exempt obligations without being so guaranteed or otherwise secured by the Corporation and the interest rate actually paid on the obligations when issued as taxable obligations. Such payments shall be made in amounts determined by the Corporation, and in accordance with such terms and conditions as the Secretary of the Treasury shall require.

Ante, p. 644.

26 USC 1 *et seq.*

SUBTITLE G—UNLAWFUL ACTS, PENALTIES, AND SUITS AGAINST THE CORPORATION

FALSE STATEMENTS

42 USC 8761.

SEC. 161. Whoever makes any false statement, knowing or having reason to believe it to be false, or whoever knowingly overvalues any security, for the purpose of obtaining for himself or for any applicant any financial assistance under this part, extension thereof by renewal, deferment of action, or otherwise, or the acceptance, release, or substitution of security therefor, or for the purpose of influencing in any way the action of the Corporation or for the purpose of obtaining money, property, contract rights, or anything of value, under this part, shall be punished by a fine of not more than $5,000 or by imprisonment for not more than two years, or both.

FORGERY

42 USC 8762.

SEC. 162. Whoever—

(1) falsely makes, forges, or counterfeits any agreement, instrument, contract, or other obligation or thing of value, which purports to have been issued by the Corporation; or

(2) passes, utters, or publishes, or attempts to pass, utter, or publish, any false, forged, or counterfeited agreement, instrument, contract, or other obligation or thing of value, which purports to have been issued by the Corporation, knowing the same to be false, forged, or counterfeited; or

(3) falsely alters any agreement, instrument, contract, or other obligation or thing of value, issued by the Corporation; or

(4) passes, utters, or publishes, or attempts to pass, utter, or publish, as true, any falsely altered agreement, instrument, contract, or other obligation or thing of value, issued by the Corporation, knowing the same to be falsely altered,

shall be punished by a fine of not more than $10,000 or by imprisonment for not more than five years, or both.

MISAPPROPRIATION OF FUNDS AND UNAUTHORIZED ACTIVITIES

SEC. 163. (a) Whoever— 42 USC 8763.

(1) embezzles, extracts, purloins, or willfully misapplies any moneys, funds, securities, or other things of value, whether belonging to it or pledged or otherwise entrusted to the Corporation;

(2) makes any false entry in any book, report, or statement of or to the Corporation or, without being duly authorized, draws any bond, other obligation, draft, bill of exchange, mortgage, judgment, or decree thereof, with intent to defraud the Corporation, any other body politic or corporate, or any individual, or to deceive any officer, auditor, or examiner of the Corporation;

(3) participates in, shares in, or receives directly or indirectly any money, profit, property, or benefit through any transaction, loan, commission, contract, or any other act of the Corporation, with intent to defraud; or

(4) gives to any person any unauthorized information concerning any future action or plan of the Corporation, or having such knowledge invests or speculates, directly or indirectly, in the securities or property of any company, bank, or corporation, receiving financial assistance from the Corporation,

shall be punished by a fine of not more than $10,000 or by imprisonment for not more than five years, or both. With respect to paragraph (4), the Corporation is authorized to obtain injunctive relief against the threatened misuse of information.

(b) Whoever falsely assumes or pretends to be a Director, officer, or employee acting under authority of the Corporation, and acts as such, or in such pretended character demands or obtains any money, paper, document, or thing of value, shall be fined not more than $1,000 or imprisoned not more than three years, or both.

CONSPIRACY

SEC. 164. If two or more persons conspire to commit any of the acts made unlawful by section 161, 162, or 163, each such person shall be fined or imprisoned, or both, as if such person committed the unlawful acts. 42 USC 8764.

INFRINGEMENT ON NAME

42 USC 8765.

SEC. 165. (a) No person or other government entity may use the words "United States Synthetic Fuels Corporation" or a combination of these words in a manner which is likely to mislead or deceive.

(b) A violation of this section may be enjoined at the suit of the Corporation.

ADDITIONAL PENALTIES

42 USC 8766.

SEC. 166. In addition to any penalties imposed as a result of a violation of any provision of this subtitle or section 138, the Corporation shall have the authority to bring an action to recover damages for losses incurred by the Corporation or any profit or gain acquired by the defendant as a result of a violation of any section of this subtitle.

SUITS BY THE ATTORNEY GENERAL

42 USC 8767.

SEC. 167. (a) If the Corporation shall engage in or adhere to any action, practices, or policies inconsistent with the the provisions of this part, or if the Corporation or any other person shall violate any provision of this part or shall obstruct or interfere with any activities authorized by this part, or shall refuse, fail, or neglect to discharge the duties and responsibilities under this part, or shall threaten any such violation, obstruction, interference, refusal, failure, or neglect, the district court of the United States for any district in which such Corporation or such other person resides or may be found shall have jurisdiction, except as otherwise prohibited by law, upon petition of the Attorney General of the United States, or upon petition of the Comptroller General of the United States, to grant such relief as may be necessary or appropriate to prevent or terminate such conduct or threat.

(b) Nothing contained in this section shall be construed as relieving any person of any punishment, liability, or sanction which may be imposed otherwise than under this part.

(c) Nothing in this section shall be deemed or construed to prevent the enforcement of the other provisions of this part by appropriate officers of the United States.

CIVIL ACTIONS AGAINST THE CORPORATION

42 USC 8768.
28 USC 81 *et seq.*
76A Stat. 51.
48 USC 1694.

SEC. 168. District courts of the United States constituted under chapter 5 of title 28, United States Code, and courts constituted under section 22 of the Organic Act of Guam (48 U.S.C. 1424), section 21 of the Revised Organic Act of the Virgin Islands (48 U.S.C. 1611), section 1 of title 3 of the Canal Zone Code, and the first section of the Act entitled "An Act to create the District Court for the Northern Mariana Islands, implementing article IV of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America", approved November 8, 1977 (91 Stat. 1265), shall have original jurisdiction for all civil actions against the Corportion: *Provided, however,* That the Federal Tort Claims Act (28 U.S.C. 2671 et seq.) shall apply to the Corporation as if it were a Federal agency and any judgment or compromised claim resulting from any action thereunder shall be paid by the Corporation from its funds: *And provided further,* That the Corporation shall be liable for contract claims only if such claims are based

upon a written contract to which the Corporation is an executing party. The liability of the Corporation shall be limited to the assets of the Corporation.

SUBTITLE H—GENERAL PROVISIONS

GENERAL POWERS

SEC. 171. (a) In carrying out the provisions of this part, the Corporation shall have the power, consistent with the provisions of this part— 42 USC 8771.

(1) to adopt, alter, and rescind bylaws and to adopt and alter a corporate seal, which shall be judicially noticed;

(2) to make agreements and contracts with persons and private or governmental entities: *Provided, however,* That the Corporation shall not provide any financial assistance except as specifically permitted under this part;

(3) to lease, purchase, accept gifts or donations of, or otherwise to acquire, and to own, hold, improve, use, or otherwise deal in or with, and to sell, convey, mortgage, pledge, lease, exchange, or otherwise dispose of, any property, real, personal, or mixed, or any interest therein;

(4) to sue and be sued, subject to the provisions of section 168, in its corporate name and to complain and defend in any court of competent jurisdiction;

(5) to represent itself, or to contract for representation, in all judicial, legal, and other proceedings, except actions cognizable under the Federal Tort Claims Act (28 U.S.C. 2671 et seq.), in which actions it will be represented by the Attorney General;

(6) subject to section 117, to select, employ, and fix the compensation (including, without limitation, pension plans, health benefits, incentive compensation plans, paid vacation, sick leave, and other fringe benefits) of such officers, employees, attorneys, and agents as shall be necessary for the transaction of the business of the Corporation; *Ante*, p. 638.

(7) to make provision for and designate such committees, and the functions thereof, as the Board of Directors may deem necessary or desirable;

(8) to indemnify Directors and officers of the Corporation, as the Board of Directors may deem necessary or desirable;

(9) with the approval of the agency concerned, to make use of services, facilities, and property of any board, commission, independent establishment, or executive agency or department of the executive branch in carrying out the provisions of this part and to pay for such use, such payments to be credited to the applicable appropriation that incurred the expense;

(10) to determine and prescribe the manner in which obligations of the Corporation shall be incurred and its expenses allowed and paid;

(11) to obtain the services and fix the compensation of experts;

(12) to use the United States mails on the same terms and conditions as the executive departments of the United States Government; and

(13) to exercise all other lawful powers necessarily or reasonably related to the establishment of the Corporation, to carry out the provisions of this part and the exercise of its powers, purposes, functions, duties, and authorized activities.

(b) The foregoing powers shall only be exercised in connection with, as authorized by this part, administrative activities, financial assistance, and Corporation construction projects and, notwithstanding any other provision of law, the Corporation shall have no legal authority, power, or purpose pursuant to this part or any other law to engage in any other activities of a business, commercial, financial, or investment nature or perform any other governmental function; and any violation of this subsection shall be punished by—

(1) a fine of not more than $10,000 or by imprisonment for not more than five years, or both;

(2) additional penalties pursuant to section 166; and

(3) relief pursuant to section 167.

(c) In addition to the powers granted under subsections (a) and (b), and only in connection with Corporation construction projects, the Corporation is authorized to exercise the power of eminent domain in the United States district court for the district in which the real property is located to acquire interests in real property, including property owned by any State or local government body or entity or any Indian tribe, in the following cases: (1) when it is necessary to provide access to the site of a Corporation construction project for site-related transportation, power transmission, and other services, and (2) when it is necessary to construct a pipeline to transport synthetic fuel from a Corporation construction project to the nearest pipeline: *Provided,* That such power shall not be exercised to acquire property for the site of any Corporation construction project, or property for any coal slurry pipeline except within the immediate vicinity of the site of such a project: *Provided further,* That the Corporation may acquire property or interests in property by eminent domain only upon a finding by its Board of Directors that the property in question is necessary for a Corporation construction project and that no other alternative property is reasonably available. These findings of the Board of Directors shall not be subject to judicial review in any court.

COORDINATION WITH FEDERAL ENTITIES

42 USC 8772.

SEC. 172. (a) Prior to awarding, or making any commitment to award, financial assistance for any synthetic fuel project, the Corporation may seek the advice and recommendations of, or information or data maintained by, any Federal department or agency to assist the Corporation in determinations to be made hereunder. Any such advice, recommendation, information, or data, to the extent permitted by law, shall be provided to the Corporation within thirty days of its request: *Provided, however,* That where such information or data comprises a trade secret, or confidential or proprietary data, the Corporation shall agree to receive such data under the same terms of confidentiality agreed to by the agency involved.

(b) The Secretary of Energy is authorized to provide such technical assistance to the Corporation as is necessary to carry out the provisions of this part.

(c) The Corporation and the Secretary of Energy are authorized and directed, in accordance with applicable law, to exchange technical information relating to synthetic fuel development.

(d)(1) The Corporation is authorized and directed to consult with the Secretary of Defense in order to identify those national defense fuel supply requirements which may be achieved under this part. Such consultation shall include identification of the technical specifi-

cations for particular fuels and such other information as may be necessary to facilitate the production of synthetic fuel under this part for the purposes of national defense.

(2) With regard to any synthetic fuel which may be acquired by the Corporation through purchase agreements, joint ventures, or Corporation construction projects, the Corporation shall offer to sell such fuels first to the Department of Defense for national defense needs in accordance with such terms and conditions as the Corporation and the Secretary of Defense may provide by contract.

PATENTS

SEC. 173. (a) Any contract to provide financial assistance under subtitle D in the form of a loan, a loan guarantee, or a joint venture may, in the judgment of the Board of Directors, require that whenever any invention is made or conceived in the course of or under such contract, title to the patent for such invention shall vest in the Corporation. The Corporation shall have the right to license the patent on a nonexclusive basis.

42 USC 8773.
Ante, p. 654.

(b)(1) The Corporation may grant a nonexclusive license for the use of any invention for which it holds the patent but it may not grant an exclusive or partially exclusive license except as provided in paragraph (2).

(2) The Corporation is authorized to grant an exclusive or partially exclusive license for the use of any invention for which it holds the patent to a responsible applicant or applicants, upon terms reasonable under the circumstances, on the basis of competitive bids and following an opportunity for a hearing, upon notice in the Federal Register thereof to the public, only when, in the judgment of the Board of Directors, such exclusive or partially exclusive license is necessary to assure substantial utilization of such invention within a reasonable time.

(c) Each exclusive or partially exclusive license for the use of an invention granted under subsection (b) shall contain such terms and conditions as the Corporation may determine to be appropriate for the protection of the interests of the United States and the general public, including provision for the Corporation, commencing two years after the grant of a license pursuant to subsection (b), to terminate such license if (1) it has not been applied to the commercialization of domestic energy resources or (2) steps have not been taken as necessary to assure substantial utilization of such invention within a reasonable time.

(d) Loan or loan guarantee agreements entered into pursuant to sections 132 and 133, respectively, shall include such terms and conditions consistent with this subsection with respect to patents as the Corporation deems appropriate to protect the interests of the Corporation in the case of default. Such agreements shall require in the case of default that all patents, technology, and other proprietary rights resulting from the synthetic fuel project shall be available to the Corporation or its designee, to complete and operate the defaulting project. Such agreements shall contain a provision specifying that other patents, technology, and other proprietary rights owned by the borrower which are necessary for the purpose of completion and operation of the synthetic fuel project shall be licensed to the Corporation and its designees on equitable terms, including due consideration to the amount of the default payments due to the Corporation.

(e) Patents, technology, and proprietary rights vested in the Corporation as a result of default on a loan or loan guarantee agreement or vested in the Corporation pursuant to subsection (a) shall be transferred to the Secretary of Energy for administration under applicable law upon termination and liquidation of the Corporation.

(f)(1) Any contract entered into by the Corporation pursuant to subtitle E shall be subject to subsections (a) through (m) of section 9 of the Federal Non-Nuclear Energy Research and Development Act of 1974 (42 U.S.C. 5908 (a) through (m)). In applying such subsections to subtitle E—

Definitions.
Ante, p. 665.

(A) the term "Administrator" in such subsections shall mean the Chairman of the Board of Directors;

(B) the term "Administration" in such subsections shall mean the Corporation;

(C) the term "United States" in such subsections shall mean the Corporation;

(D) the term "Government" in subsections (a) and (d) of such sections shall include the Corporation for purposes of such subsection; and

(E) the term "any Government agency" in subsection (h)(2) of such section shall mean the United States.

(2) Section 9 of the Federal Non-Nuclear Energy Research and Development Act of 1974 shall not apply to financial assistance granted pursuant to subtitle D.

42 USC 5908.
Ante, p. 654.

(g) The United States Government shall have a royalty-free, nonexclusive license to any invention in which the Corporation owns title or reserves a license pursuant to subsection (a). The Corporation may assign title to any invention in which it has the title to the United States Government.

SMALL AND DISADVANTAGED BUSINESS UTILIZATION

42 USC 8774.

SEC. 174. In providing financial assistance, the Corporation shall require the recipient thereof to provide for the fair and reasonable participation by small and disadvantaged businesses in the synthetic fuel project receiving financial assistance and the Corporation shall do so with respect to Corporation construction projects under subtitle E.

Ante, p. 665.

RELATIONSHIP TO OTHER LAWS

42 USC 8775.

SEC. 175. (a) No Federal law shall apply to the Corporation as if it were an agency or instrumentality of the United States, except as expressly provided in this part.

(b) No action of the Corporation except the construction and operation of synthetic fuel projects pursuant to subtitle E shall be deemed to be a "major Federal action significantly affecting the quality of the human environment" for purposes of section 102(2)(C) of the National Environmental Policy Act of 1969, and with respect to Corporation construction projects, the Corporation shall be deemed to be a Federal agency for the purposes of such Act.

42 USC 4332.

(c) The provisions of the Act entitled "An Act Relating to the rate of wages for laborers and mechanics employed on public buildings of the United States and the District of Columbia by contractors and subcontractors, and for other purposes", approved March 3, 1931 (40 U.S.C. 276a et seq.) and commonly known as the Davis-Bacon Act, and the provisions of the Service Contracts Act shall apply to the

41 USC 351 note.

Corporation as if it were an agency of the United States. All laborers and mechanics employed for the construction, repair, or alteration of synthetic fuel projects funded, in whole or in part, by the Corporation pursuant to section 132, 133, or 136 of this part shall be paid wages at rates not less than those prevailing on projects of a similar character in the locality as determined by the Secretary of Labor in accordance with the Act commonly known as the Davis-Bacon Act. The Corporation shall not extend any loan or loan guarantee for construction, repair or alteration of a synthetic fuel project unless a certification is provided to the Corporation prior to the commencement of construction, or at the time of filing an application for a loan or loan guarantee if construction has already commenced, that these labor standards will be maintained at the synthetic fuel project. The Secretary of Labor shall have, with respect to the labor standards specified in this subsection, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 and section 276c of title 40.

Ante, pp. 658, 660, 662.

40 USC 276a note.

5 USC app.

(d) The securities laws of the United States as defined in section 21(g) of the Securities Exchange Act of 1934 (15 U.S.C. 78u(g)) shall apply to the Corporation as if it were an agency or instrumentality of the United States.

(e) The antitrust laws, as defined in section 12 of title 15, United States Code, shall apply to the Corporation as if it were an agency of the United States.

(f) The Government Corporation Control Act (31 U.S.C. 841 et seq.) shall not apply with respect to the Corporation.

(g) Except to the extent expressly provided herein, the Corporation shall not be deemed to be an agency of the United States or an instrumentality of the United States.

(h) The Longshoremen's and Harbor Workers' Compensation Act shall apply with respect to the injury and disability or death resulting from injury as defined in section 2(2) of such Act occurring to any Director, officer, or employee of the Corporation.

33 USC 902.

(i) Nothing in this part shall be deemed to limit the powers of the Energy Mobilization Board with respect to a synthetic fuel project or synthetic fuel project module receiving financial assistance under this part or Corporation construction projects.

(j)(1) For purposes of section 211(b) of the Powerplant and Industrial Fuel Use Act of 1978 (92 Stat. 3300), a petitioner under such section shall be deemed to have made the demonstrations required by section 211(b)(1) and section 211(b)(2) of such Act if he has entered into a legally valid agreement with a qualified producer of synthetic fuel for the future delivery of sufficient quantities of synthetic fuel to be used at the facility for which the exemption is sought. The submission to the Secretary of Energy of evidence of the existence of such a legally valid agreement also shall be deemed to satisfy the requirement of section 211(b) of such Act that the petitioner file and maintain a compliance plan satisfying the requirements of section 214(b) of such Act.

42 USC 8321.

(2) For purposes of paragraph (1), a person shall be deemed to be a "qualified producer of synthetic fuel" if he received financial assistance in the form of a loan, loan guarantee, purchase agreement, or price guarantee pursuant to subtitle D.

Ante, p. 654.

(3) In addition, in order to constitute a "legally valid agreement" for purposes of paragraph (1), the agreement with the qualified synthetic fuel producer must provide for the intitial delivery of synthetic fuel within the period of time during which such facility is exempted pursuant to section 211(e) of such Act.

42 USC 8321.

(4) For purposes of section 211(b) of such Act, an extension or renewal under section 211(e)(1) of such Act or section 211(e)(2)(B) of such Act may be granted at the time the original exemption is issued or at any subsequent date.

(5) Nothing in this subsection shall be construed to relieve the petitioner from compliance with subtitle A of title II of the Powerplant and Industrial Fuel Use Act of 1978.

42 USC 8311.

(k) This part shall not affect any authority contained in the Defense Production Act of 1950.

50 USC app. 2061.

SEVERABILITY

42 USC 8776.

SEC. 176. If any provision of this part, or the application of any such provision to any person or circumstance, shall for any reason be adjudged by any court of competent jurisdiction to be invalid, the remainder of this part, or the application of such provision to persons or circumstances other than those to which it is held invalid, shall not be affected thereby.

FISCAL YEAR, AUDITS AND REPORTS

42 USC 8777.

SEC. 177. (a) The fiscal year of the Corporation shall coincide with the fiscal year of the United States Government.

(b)(1) The Corporation shall retain a firm or firms of nationally recognized public accountants who shall prepare, in accordance with generally accepted accounting principles, and report an annual audit of the accounts of the Corporation including statements of the type required in section 106 of the Government Corporation Control Act (31 U.S.C. 851).

(2) The General Accounting Office is authorized to conduct such audits of the accounts of the Corporation and to report upon the same to the Congress, as the General Accounting Office shall deem necessary or as the Congress may request, but not less than every three years.

(3) All books, accounts, financial records, reports, files, papers, and property belonging to or in use by the Corporation shall be made available to the person or persons conducting the audit for verifying transactions.

(c)(1) The Corporation shall submit quarterly reports to the Congress and the President. Each report will state the aggregate sums then outstanding or committed for financial assistance under subtitle D and for Corporation construction projects under subtitle E, and a summary of any financial assistance retired or any synthetic fuel project liquidated by the Corporation pursuant to subtitle I. Each report shall contain a list of the concerns receiving financial assistance involved in Corporation construction projects.

(2) The quarterly report in which any expenditure or commitment to a concern or synthetic fuel project is first noted shall contain a brief description of the factors considered by the Corporation in making such expenditure or commitment. The report shall include (A) financial statements prepared in accordance with generally accepted accounting principles, consistently applied, as of the end of the Corporation's fiscal quarter preceding the date of the report and (B) compensation of persons employed or under contract by the Corporation at salary rates exceeding $2,500 per month.

(d)(1) Not later than 120 days after the end of each fiscal year, the Corporation shall submit to the Congress and the President an

annual report containing, in addition to the information required in the quarterly report required under subsection (c)(2), (A) a general description of the Corporation's operations during the year, (B) a specific description of each synthetic fuel project in which the Corporation is involved, (C) a status report on each such project, and (D) an evaluation of the contribution which the project has made and is expected to make in fulfilling the purposes of this title (including, where possible, a precise statement of the amount of domestic energy produced or to be produced thereby).

(2) The annual report shall describe progress made toward meeting the purposes (including the national synthetic fuel production goal established in section 125) of this title and contain specific recommendations on what actions the Congress could take in order to facilitate the work of the Corporation in achieving the purposes of this title. The annual report shall address the environmental impacts of the Corporation's generic programs and decisions. *Ante*, p. 644.

(3) The annual report shall contain financial statements prepared by the Corporation in accordance with generally accepted accounting principles, consistently applied, and certified by the accountants retained under section (b)(1).

(e) On or before September 30, 1990, the Corporation shall submit to the Congress and the President a report evaluating the overall impact made by the Corporation and describing the status of each then current synthetic fuel project. This report shall contain a liquidation plan. The liquidation plan shall describe how each synthetic fuel project, and every substantial asset or liability of the Corporation, will be liquidated, terminated, satisfied, sold, transferred, or otherwise disposed of. Each annual report thereafter made by the Corporation will describe the progress made in carrying out such liquidation plan.

WATER RIGHTS

SEC. 178. (a) Nothing in this part shall (1) affect the jurisdiction of the States and the United States over waters of any stream or over any ground water resource, (2) alter, amend, repeal, interpret, modify, or be in conflict with any interstate compact made by any States, or (3) confer upon any non-Federal entity the ability to exercise any Federal right to the waters of any stream or to any ground water resource. 42 USC 8778.

(b) No project constructed pursuant to the authorities of this part shall be considered to be a Federal project for purposes of the application for or assignment of water rights.

WESTERN HEMISPHERE PROJECTS

SEC. 179. (a) The Corporation is authorized to transmit a Corporation synthetic fuel action under section 128 relating to an award of financial assistance pursuant to subtitle D for not to exceed two synthetic fuel projects located in the Western Hemisphere outside the United States. If such Corporation synthetic fuel action is not disapproved by either House during the period specified in section 128, the Corporation shall be authorized to award such financial assistance. 42 USC 8779. *Ante*, p. 650. *Ante*, p. 654.

(b) The Corporation may use the authority of subsection (a) if the Corporation determines that—

(1) the project will use a class of resource that is located in the United States but that such class of resource will not be subject to

timely commercial production in the United States even if the Corporation provided financial assistance;

(2) the project will receive financial assistance from the government of the country in which the project is located;

(3) the synthetic fuel produced by such project will be available to users in the United States in quantities the Corporation determines to be equitable considering the nature and amounts of financial assistance; and

(4) all technology, patents, and trade secrets developed in connection with such project shall be available to citizens of the United States through rights in the Corporation or through licensing at reasonable cost for use in the United States.

(c) There is authorized for the purpose of this section not to exceed 10 percent of the aggregate obligational authority under section 152(a). Such authorization shall terminate upon approval of the comprehensive production strategy pursuant to section 126(c).

Ante, p. 644.

COMPLETION GUARANTEE STUDY

42 USC 8780.

SEC. 180. The Corporation shall conduct a study of supplemental financial protection for lenders including completion guarantees and other mechanisms to ascertain the desirability of employing such mechanisms to enlarge the number of potential participants in the synthetic fuel development program. A report on such study and recommendations based thereon shall be included in the comprehensive strategy submitted under section 126(b).

Report and recommendations.

SUBTITLE I—DISPOSAL OF ASSETS

TANGIBLE ASSETS

42 USC 8781.

SEC. 181. (a)(1) The Corporation, by and through its Board of Directors, is authorized, from time to time, on the basis of the criteria of subsection (b), to dispose of any portion or all of the tangible assets of the Corporation when such disposal is in the best interests of the Corporation for purposes of carrying out the provisions of this part either—

(A) on the basis of competitive bids, by selling to any person or concern any portion of the assets of the Corporation; or

(B) by transferring to a Federal agency of any portion or all of the tangible assets of the Corporation; or

(C) on the basis of a negotiated contract, consistent with paragraph (2), by selling to a person or concern any portion or all of the tangible assets of the Corporation.

(2) With regard to the sale of tangible assets pursuant to subsection (a)(1)(C), the Corporation shall—

Notice. Publication in Federal Register.

(A) publish in the Federal Register notice of the proposed sale of such asset;

(B) convene a prospective bidders conference; and

(C) no earlier than thirty days after such notice and conference, undertake negotiations for the sale of such asset.

Notification to President, Senate committee and Speaker of the House.

(3) At least thirty days prior to the disposal of any tangible asset pursuant to paragraph (1), the Corporation shall notify the President, the Senate Committee on Energy and Natural Resources and the Speaker of the House of Representatives of the intended disposal of such tangible asset.

(b) For the purpose of this section, the term "tangible asset" means any single asset, or aggregation of assets, with a value of $1,000,000 or more. "Tangible asset."

(c) In establishing the acceptable terms and conditions of the sale or transfer of tangible assets constituting a synthetic fuel project, or portion thereof, or a Corporation construction project, or portion thereof, the Board of Directors shall make every reasonable effort—

(1) to recover the financial investment, if any, of the Corporation in such assets;

(2) to foster competition within the industry to which the assets are to be sold; and

(3) to assure that such assets will be productively utilized and, if possible, will continue in operation.

(d) With regard to the sale or transfer of tangible assets not included under subsection (c), the Corporation shall establish terms and conditions for the sale or transfer of such tangible assets in order to achieve the greatest financial return to the Corporation.

DISPOSAL OF OTHER ASSETS

SEC. 182. Except as provided for in section 181, the Corporation is authorized, from time to time, (1) consistent with the requirements of the Federal Property and Administrative Services Act, to sell to any person any portion of the assets of the Corporation, or (2) transfer to a Federal agency any portion or all of the assets of the Corporation. 42 USC 8782.

SUBTITLE J—TERMINATION OF CORPORATION

DATE OF TERMINATION

SEC. 191. Notwithstanding any other provision of this title— 42 USC 8791.

(1) the Corporation shall make no new awards or commitments for financial assistance under subtitle D for synthetic fuel projects after September 30, 1992; and *Ante*, p. 654.

(2) the Corporation shall terminate on September 30, 1997: *Provided, however,* That the President, on recommendation of the Board of Directors, may by Executive order terminate the Corporation at an earlier date, but in no event prior to September 30, 1992.

TERMINATION OF THE CORPORATION'S AFFAIRS

SEC. 192. (a) On and after the final commitment date under section 191(1), the Board of Directors shall diligently commence all practical and reasonable steps to achieve an orderly termination of the Corporation's affairs on or prior to its date of termination pursuant to section 191(2). 42 USC 8792.

(b) The steps taken pursuant to subsection (a) may include the disposal of the tangible assets of the Corporation pursuant to section 181 and the disposal of other assets pursuant to section 182.

(c) On termination of the Corporation, any contract or obligation for financial assistance pursuant to subtitle D shall be administered pursuant to section 193.

TRANSFER OF POWERS TO DEPARTMENT OF THE TREASURY

SEC. 193. (a) If, on the date of termination of the Corporation, its Board of Directors shall not have completed the termination of its 42 USC 8793.

affairs and the liquidation of its assets pursuant to subtitle I, the duty of completing such winding up of its affairs and liquidation shall be transferred to the Secretary of the Treasury, who for such purposes shall succeed to all the powers, duties, rights, and obligations of the Corporation, its Board of Directors and Chairman under this part and nothing herein shall be construed to affect any right or privilege accrued, any penalty or liability incurred, any criminal or civil proceeding commenced, or any authority conferred hereunder, except as herein specifically provided in connection with such termination of the affairs and liquidation of the remaining assets of the Corporation. Following such transfer, the Secretary of the Treasury may assign to any officer or officers of the United States in the Treasury Department the exercise and performance, under such Secretary's general supervision and direction, of any powers, duties, rights, and obligations so transferred from the Corporation to the Secretary.

(b) When the Secretary of the Treasury finds that the liquidation of any remaining assets will no longer be advantageous to the United States and that all of the legal obligations of the Corporation have been provided for, the Secretary shall pay into the general fund of the Treasury as miscellaneous receipts the unused balance of the moneys belonging to the Corporation and shall make a final report on the Corporation to the Congress. Thereupon the Corporation shall be deemed to be dissolved.

SUBTITLE K—DEPARTMENT OF THE TREASURY

AUTHORIZATIONS

42 USC 8795.

SEC. 195. (a)(1)(A) There is hereby authorized to be appropriated without fiscal year limitation to the Secretary of the Treasury to purchase and retain notes and other obligations of the Corporation, $20,000,000,000—

(i) plus such sums, if any, as are authorized pursuant to section 126; and

(ii) less such sums—

(I) as are obligated for purposes of carrying out the provisions of section 305 of the Defense Production Act of 1950 before the date determined under section 305(k)(1) of the Defense Production Act of 1950 or are required to be retained as a reserve against a contingent obligation incurred before such date under such section, up to a maximum of $3,000,000,000; and

Ante, p. 619.

(II) as are obligated from the Energy Security Reserve by the Department of Energy pursuant to the Federal Non-Nuclear Energy Research and Development Act of 1974 (Public Law 93-577, 42 U.S.C. 5901), up to a maximum of $2,208,000,000.

(B) Such moneys shall be deposited in the Energy Security Reserve established in the Treasury of the United States by the Department of the Interior and Related Agencies Appropriation Act, 1980 (93 Stat. 954; Public Law 96-126), which account, and the appropriations therefor, shall be available to the Secretary of the Treasury for the purpose of carrying out the purposes of this title. The appropriations and authorities provided for alternative fuels production in such appropriations Act are hereby authorized without fiscal year limitation.

(2) On the basis of each notification by the Corporation made pursuant to section 131(k)(2) to the Secretary of the Treasury of an award of financial assistance by the Corporation, and consistent with the provisions of section 152, the Secretary of the Treasury shall reserve within the Energy Security Reserve an amount equal to the amount determined pursuant to section 131(k)(1).

(3) Upon receipt of notification from the Corporation under section 131(k)(2), the Secretary of the Treasury, within 15 calendar days, shall certify to the Corporation that the amount required by paragraph (2) has been reserved within the Energy Security Reserve.

(b) For purposes of purchasing the obligations of the Corporation pursuant to subsection (a), the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities hereafter issued under the Second Liberty Bond Act (31 U.S.C. 752 et seq.), and the purposes for which securities may be issued under such Act are extended to include such purchases.

(c) All redemptions, purchases, and sales by the Secretary of the Treasury of such obligations under this section shall be treated as public debt transactions of the United States.

TITLE II—BIOMASS ENERGY AND ALCOHOL FUELS

Biomass Energy and Alcohol Fuels Act of 1980

SHORT TITLE

SEC. 201. This title may be cited as the "Biomass Energy and Alcohol Fuels Act of 1980". 42 USC 8801 note.

FINDINGS

SEC. 202. The Congress finds that— 42 USC 8801.

(1) the dependence of the United States on imported petroleum and natural gas must be reduced by all economically and environmentally feasible means, including the use of biomass energy resources; and

(2) a national program for increased production and use of biomass energy that does not impair the Nation's ability to produce food and fiber on a sustainable basis for domestic and export use must be formulated and implemented within a multiple-use framework.

DEFINITIONS

SEC. 203. As used in this title— 42 USC 8802.

(1) The term "alcohol" means alcohol (including methanol and ethanol) which is produced from biomass and which is suitable for use by itself or in combination with other substances as a fuel or as a substitute for petroleum or petrochemical feedstocks.

(2)(A) The term "biomass" means any organic matter which is available on a renewable basis, including agricultural crops and agricultural wastes and residues, wood and wood wastes and residues, animal wastes, municipal wastes, and aquatic plants.

(B) For purposes of subtitle A, such term does not include municipal wastes; and for purposes of subtitle C, such term does not include aquatic plants and municipal wastes.

(3) The term "biomass fuel" means any gaseous, liquid, or solid fuel produced by conversion of biomass.

(4) The term "biomass energy" means—

(A) biomass fuel; or

(B) energy or steam derived from the direct combustion of biomass for the generation of electricity, mechanical power, or industrial process heat.

(5) The term "biomass energy project" means any facility (or portion of a facility) located in the United States which is primarily for—

(A) the production of biomass fuel (and byproducts); or

(B) the combustion of biomass for the purpose of generating industrial process heat, mechanical power, or electricity (including cogeneration).

(6) The term "Btu" means British thermal unit.

(7) The term "cogeneration" means the combined generation by any facility of—

(A) electrical or mechanical power, and

(B) steam or forms of useful energy (such as heat) which are used for industrial, commercial, heating, or cooling purposes.

(8) The term "cooperative" means any agricultural association, as that term is defined in section 15(a) of the Act of June 15, 1929, as amended (46 Stat. 18; 12 U.S.C. 1141j), commonly known as the Agricultural Marketing Act.

(9)(A) The term "construction" means—

(i) the construction or acquisition of any biomass energy project;

(ii) the conversion of any facility to a biomass energy project; or

(iii) the expansion or improvement of any biomass energy project which increases the capacity or efficiency of that facility to produce biomass energy.

(B) Such term includes—

(i) the acquisition of equipment and machinery for use in or at the site of a biomass energy project; and

(ii) the acquisition of land and improvements thereon for the construction, expansion, or improvement of such a project, or the conversion of a facility to such a project.

(C) Such term does not include the acquisition of any facility which was operated as a biomass energy project before the acquisition.

(10) The term "Federal agency" means any Executive agency, as defined in section 105 of title 5, United States Code.

(11)(A) The term "financial assistance" means any of the following forms of financial assistance provided under this title, or any combination of such forms:

(i) loans,

(ii) loan guarantees,

(iii) price guarantees, and

(iv) purchase agreements.

(B) Such term includes any commitment to provide such assistance.

(12) The term "Indian tribe" means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(13) The term "motor fuel" means gasoline, kerosene, and middle distillates (including diesel fuel).

(14)(A) The term "municipal waste" means any organic matter, including sewage, sewage sludge, and industrial or commercial waste, and mixtures of such matter and inorganic refuse—

(i) from any publicly or privately operated municipal waste collection or similar disposal system, or

(ii) from similar waste flows (other than such flows which constitute agricultural wastes or residues, or wood wastes or residues from wood harvesting activities or production of forest products).

(B) Such term does not include any hazardous waste, as determined by the Secretary of Energy for purposes of this title.

(15)(A) The term "municipal waste energy project" means any facility (or portion of a facility) located in the United States primarily for—

(i) the production of biomass fuel (and byproducts) from municipal waste; or

(ii) the combustion of municipal waste for the purpose of generating steam or forms of useful energy, including industrial process heat, mechanical power, or electricity (including cogeneration).

(B) Such term includes any necessary transportation, preparation, and disposal equipment and machinery for use in or at the site of the facility involved.

(16) The term "Office of Alcohol Fuels" means the Office of Alcohol Fuels established under section 220.

(17) The term "person" means any individual, company, cooperative, partnership, corporation, association, consortium, unincorporated organization, trust, estate, or any entity organized for a common business purpose, any State or local government (including any special purpose district or similar governmental unit) or any agency or instrumentality thereof, or any Indian tribe or tribal organization.

(18) The term "State" means any of the fifty States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

(19) The term "small scale biomass energy project" means a biomass energy project with an anticipated annual production capacity of not more than 1,000,000 gallons of ethanol per year, or its energy equivalent of other forms of biomass energy.

FUNDING FOR SUBTITLES A AND B

SEC. 204. (a) To the extent provided in advance in appropriation Acts, for the two year period beginning October 1, 1980, there is authorized to be appropriated and transferred $1,450,000,000 from the Energy Security Reserve established in the Treasury of the United States under title II of the Act entitled "An Act making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1980, and for other purposes" (Public Law 96-126; 93 Stat. 970) and made available for obligation by such Act only to the extent provided in advance in appropriation Acts, as follows:

Appropriation authorization.
42 USC 8803.

(1) $600,000,000 to the Secretary of Agriculture for carrying out activities under subtitle A, except of the amount of the financial assistance provided by the Secretary of Agriculture under subtitle A, up to one-third shall be for small-scale biomass energy projects;

(2) $600,000,000 to the Secretary of Energy for carrying out biomass energy activities under subtitle A, of which at least $500,000,000 shall be available to the Office of Alcohol Fuels for carrying out its activities, and any amount not made available to the Office of Alcohol Fuels shall be available to the Secretary to carry out the purposes of subtitle A under available authorities of the Secretary, including authorities under subtitle A; and

(3) $250,000,000 shall be available to the Secretary of Energy for carrying out activities under subtitle B.

(b) Funds made available under subsection (a) shall remain available until expended.

(c)(1) For purposes of determining the amount of such appropriations which remain available for purposes of this title—

(A) loans shall be counted at the initial face value of the loan;

(B) loan guarantees shall be counted at the initial face value of such loan guarantee;

(C) price guarantees and purchase agreements shall be counted at the value determined by the Secretary concerned as of the date of each such contract based upon the Secretary's determination of the maximum potential liability of the United States under the contract; and

(D) any increase in the liability of the United States pursuant to any amendment or other modification to a contract for a loan, loan guarantee, price guarantee, or purchase agreement, shall be counted to the extent of such increase.

(2) Determinations under paragraph (1) shall be made in accordance with generally accepted accounting principles, consistently applied.

(3) If more than one form of financial assistance is to be provided to any one project, the obligations and commitments thereunder shall be counted at the maximum potential exposure of the United States on such project at any time during the life of such project.

(4) Any commitment to provide financial assistance shall be treated the same as such assistance for purposes of this subsection; except that any such commitment which is nullified or voided for any reason shall not be considered for purposes of this subsection.

(d) Financial assistance may be provided under this title only to the extent provided in advance in appropriation Acts.

COORDINATION WITH OTHER AUTHORITIES AND PROGRAMS

42 USC 8804.

SEC. 205. The authorities in this title are in addition to and do not modify (except to the extent expressly provided for in this title) authorities and programs of the Department of Energy and of the Department of Agriculture under other provisions of law.

SUBTITLE A—GENERAL BIOMASS ENERGY DEVELOPMENT

BIOMASS ENERGY DEVELOPMENT PLANS

Transmittal to President and Congress.
42 USC 8811.

SEC. 211. (a) Not later than 180 days after the date of the enactment of this Act, the Secretary of Agriculture and the Secretary of Energy

shall jointly prepare, and transmit to the President and the Congress, a plan for maximizing in accordance with this subtitle biomass energy production and use. Such plan shall be designed to achieve a total level of alcohol production and use within the United States of at least 60,000 barrels per day of alcohol by December 31, 1982.

(b)(1) Not later than January 1, 1982, the Secretary of Agriculture and the Secretary of Energy shall jointly prepare, and transmit to the President and the Congress, a comprehensive plan for maximizing in accordance with this subtitle biomass energy production and use, for the period beginning January 1, 1983, and ending December 31, 1990. Such plan shall be designed to achieve a level of alcohol production within the United States equal to at least 10 percent of the level of gasoline consumption within the United States as estimated by the Secretary of Energy for the calendar year 1990. Transmittal to President and Congress.

(2) The plan prepared under this subsection shall evaluate the feasibility of reaching the goals set forth in such subsection. Evaluation.

(c) The plans prepared under subsections (a) and (b) shall each include guidelines for use in awarding financial assistance under this subtitle which are designed to increase, during the period covered by the plan, the amount of motor fuel displaced by biomass energy. Guidelines for financial assistance.

PROGRAM RESPONSIBILITY AND ADMINISTRATION; EFFECT ON OTHER PROGRAMS

SEC. 212. (a)(1) Except as provided in paragraph (2), in the case of any financial assistance under this subtitle for a biomass energy project, the Secretary concerned shall be— 42 USC 8812.

(A) the Secretary of Agriculture, in the case of any biomass energy project which will have an anticipated annual production capacity of less than 15,000,000 gallons of ethanol (or the energy equivalent of other forms of biomass energy) and which will use feedstocks other than aquatic plants; and

(B) the Secretary of Energy, in the case of any biomass energy project which will use aquatic plants as feedstocks or which will have an anticipated annual production capacity of 15,000,000 gallons or more of ethanol (or the energy equivalent of other forms of biomass energy).

(2)(A) Either the Secretary of Agriculture or the Secretary of Energy may be the Secretary concerned in the case of any biomass energy project which will have an anticipated annual production capacity of 15,000,000 gallons or more of ethanol (or the energy equivalent of other forms of biomass energy) and—

(i) which will use wood or wood wastes or residue, or

(ii) which is owned and operated by a cooperative and will use feedstocks other than aquatic plants.

(B) Financial assistance may not be provided by either Secretary under subparagraph (A) without the written concurrence of the other Secretary. Such concurrence shall be granted or denied by such Secretary in accordance with subparagraph (C) and on the same standards as that Secretary applies in making his own awards of financial assistance under this paragraph.

(C)(i) In the case of a project described in subparagraph (A), the Secretary concerned shall provide the other Secretary a copy of the application and such supporting information as may be material, and shall provide the other Secretary at least 15 days to review the project. If during such 15-day period the reviewing Secretary provides written notification to the Secretary concerned specifying reasons Review of project.

why such project should not proceed, the Secretary concerned shall defer the final decision on the application for an additional 30 days. During such 30-day period, both Secretaries shall attempt to reach agreement regarding all issues raised in the written notice. Before the end of the 30-day period, the reviewing Secretary shall notify the Secretary concerned of his decision regarding concurrence. If the reviewing Secretary fails to provide such notice before the end of such period, concurrence shall be deemed to have been given.

Reapplication for financial assistance.

(ii) The project applicant may reapply for financial assistance for such project, after making such modifications to the project as may be necessary to address issues raised by the reviewing Secretary in the original notice of objection. The subsequent review of such project by the reviewing Secretary shall be limited to the issues originally raised by the reviewing Secretary and any issues raised by changed circumstances.

(D) Both Secretaries may jointly act as the Secretary concerned in accordance with such procedures as the Secretaries may jointly prescribe, in which case—

(i) subparagraphs (B) and (C) and subsection (c) shall not apply, and

(ii) the proportion of financial assistance provided by each Secretary shall be determined in accordance with the procedures jointly prescribed.

(b)(1) Each Secretary shall take such action as may be necessary to assure that—

(A) guidelines for soliciting and receiving applications for financial assistance are established within 90 days after the date of the enactment of this Act;

(B) applications for financial assistance for biomass energy projects are initially solicited within 30 days after such guidelines are established;

(C) additional applications for financial assistance are solicited within 1 year after the date of the initial solicitation;

(D) any application is evaluated and a decision made on such application within 120 days after the receipt of the application, including review under subsections (a)(2)(C), (a)(2)(D), or (c); and

(E) all interested persons are provided the easiest possible access to the application process, including procedures which assure that—

(i) information concerning financial assistance from either Secretary is available through all appropriate offices of the Department of Agriculture and the Department of Energy, and other regional and local offices of the Federal Government, as may be appropriate;

(ii) all such locations where such information is available will be able to accept and file applications, and will forward them to the Secretary concerned; and

(iii) the procedures established for accepting, evaluating, and awarding financial assistance will provide for categories of biomass energy projects, according to size and provide to the maximum extent practicable the simplest procedures for small producers.

(2) The procedural requirements of subparagraphs (A) through (D) of paragraph (1) shall not apply to either Secretary to the extent that the Secretary finds that other procedures are adopted for the solicitation, evaluation, and awarding of financial assistance which will result in applications being processed more expeditiously.

(c)(1) After evaluating any application and before awarding any financial assistance on the basis of that application, the Secretary concerned shall provide the other Secretary with—

(A) a copy of the application and such supporting material as may be appropriate, and

(B) an opportunity of not less than 15 days to review the application.

This subsection shall not apply in the case of a project subject to review under subsection (a)(2)(C).

(2) If the reviewing Secretary provides written notice specifying any issues regarding matters subject to the Secretary's review to the Secretary concerned before the end of the 15-day review period, the Secretary concerned shall defer a final decision on the application for an additional 30 days to provide an opportunity for both Secretaries to answer and resolve such issues. At the expiration of the 30-day period, the Secretary concerned may make a final decision with respect to the application, using the best judgment of the Secretary concerned to resolve any remaining issues.

(3) Reviews of projects under the provisions of subsection (a)(2)(C) or paragraph (1)(B) by the Secretary of Agriculture shall be for the purpose of considering the national, regional, and local agricultural policy impacts of such project on agricultural supply, production, and use, and reviews by the Secretary of Energy under such provisions shall be for the purpose of considering national energy policy impacts and the technical feasibility of the project.

(4) The Secretary of Agriculture and the Secretary of Energy may jointly establish categories of projects to which paragraphs (1) and (2) shall not apply. Within 90 days after the date of the enactment of this Act, the Secretaries shall identify potential categories and make an initial determination of exempted categories.

Notice of disapproval.

(d) If any application for financial assistance under this subtitle is disapproved, the applicant shall be provided written notice of the reasons for the disapproval.

Administrative entities.

(e)(1) The functions assigned under this subtitle to the Secretary of Agriculture may be carried out by any of the administrative entities in the Department of Agriculture which the Secretary of Agriculture may designate. Within 30 days after the date of the enactment of this Act, the Secretary of Agriculture shall make such designations and notify the Congress of the administrative entity or entities so designated and the officials in such administrative entity or entities who are to be responsible for such functions.

Notification to Congress.

Regulations.

(2) The Secretary of Agriculture may issue such regulations as are necessary to carry out functions assigned to the Secretary of Agriculture under this subtitle.

(3) The entities or entity designated under paragraph (1) shall coordinate the administration of functions assigned to it under this subsection with any other biomass energy programs within the Department of Agriculture established under other provisions of law.

(f) The functions under this subtitle which are assigned to the Secretary of Energy and which relate to alcohol production shall be carried out by the Office of Alcohol Fuels.

(g) For purposes of this subtitle, the quantity of any biomass energy which is the energy equivalent to 15,000,000 gallons of ethanol shall be prescribed jointly by the Secretary of Agriculture and the Secretary of Energy within 30 days after the date of the enactment of this Act.

INSURED LOANS

42 USC 8813.

SEC. 213. (a) Subject to sections 212 and 217, the Secretary of Agriculture may commit to make, and make, insured loans in amounts not to exceed $1,000,000 per project for the construction of small-scale biomass energy projects.

(b)(1) Any insured loan under this section—

(A) may not exceed 90 per centum of the total estimated cost of construction of the biomass energy project involved, and

(B) shall bear interest at rates determined by the Secretary of Agriculture, taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans, plus not to exceed one per centum, as determined by the Secretary of Agriculture, and adjusted to the nearest one-eighth of one per centum.

(2) In the event the total estimated costs of construction of the project thereafter exceed the total estimated costs initially determined by the Secretary of Agriculture, the Secretary may in addition, upon application therefor, make an insured loan for so much of the additional estimated total costs as does not exceed 10 per centum of the total costs initially estimated.

(c)(1) The Secretary of Agriculture shall make insured loans under this section using, to the extent provided in advance in appropriations Acts, the Agricultural Credit Insurance Fund in section 309 of the Consolidated Farm and Rural Development Act or the Rural Development Insurance Fund in section 309A of such Act (hereinafter in this section referred to as the "Funds"). The Secretary of Agriculture may not use an aggregate amount of funds to make or commit to make insured loans under this section in excess of the aggregate amount for insured loans and administrative costs appropriated and transferred under section 204. The terms, conditions, and requirements applicable to such insured loans shall be in accordance with this subtitle.

7 USC 1929.
7 USC 1929a.

Terms and conditions.

(2) There shall be reimbursed to the Funds, from appropriations made under section 204, amounts equal to the operating and administrative costs incurred by the Secretary of Agriculture in insuring loans under this section.

(3) Notwithstanding any provision of the Consolidated Farm and Rural Development Act, no funds made available to the Secretary of Agriculture under this section for insured loans shall be used for any other purpose.

7 USC 1921 note.

"Insured loan."

(4) For purposes of this section, the term "insured loan" means a loan which is made, sold, and insured.

(d) An insured loan may not be made under this section unless the applicant for such loan has established to the satisfaction of the Secretary that the applicant is unable without such a loan to obtain sufficient credit elsewhere at reasonable rates and terms, taking into consideration prevailing private and cooperative rates and terms for loans for similar purposes and periods of time, to finance the construction of the biomass energy project for which such loan is sought.

LOAN GUARANTEES

42 USC 8814.

SEC. 214. (a) Subject to sections 212 and 217, the Secretary concerned may commit to guarantee, and guarantee, against loss of

principal and interest, loans which are made to provide funds for the construction of biomass energy projects.

(b)(1) Any guarantee of a loan under this section may not exceed 90 per centum of the cost of the construction of the biomass energy project involved, as estimated by the Secretary on the date of the guarantee or commitment to guarantee.

(2) In the event the construction costs of the project are thereafter estimated by the Secretary concerned to exceed the construction costs initially estimated by the Secretary, the Secretary may in addition, upon application therefor, guarantee, against loss of principal and interest, a loan for up to 60 per centum of the difference between the construction costs then estimated and the construction costs initially estimated.

(c) Notwithstanding the provisions of the Federal Financing Bank Act of 1973 (12 U.S.C. 2281 et seq.) or any other provision of law (except as may be specifically provided by reference to this subsection in any Act enacted after the date of the enactment of this Act), no debt obligation which is guaranteed or committed to be guaranteed by the Secretary of Agriculture or the Secretary of Energy under this section shall be eligible for purchase by, or commitment to purchase by, or sale or issuance to, the Federal Financing Bank or any Federal agency.

(d) The terms and conditions of loan guarantees under this section shall provide that, if the Secretary concerned makes a payment of principal or interest upon the default by a borrower, the Secretary shall be subrogated to the rights of the recipient of such payment (and such subrogation shall be expressly set forth in the loan guarantee or related agreements). Terms and conditions.

(e) Any loan guarantee under this section shall not be terminated, canceled, or otherwise revoked, except in accordance with the terms thereof and shall be conclusive evidence that such guarantee complies fully with the provisions of this title and of the approval and legality of the principal amount, interest rate, and all other terms of the securities, obligations, or loans and of the guarantee.

(f) If the Secretary concerned determines that— Payment to lender, conditions.

(1) the borrower is unable to meet payments and is not in default,

(2) it is in the public interest to permit the borrower to continue with such project, and

(3) the probable net benefit to the United States in paying the principal and interest due under the loan will be greater than that which would result in the event of a default,

then the Secretary may pay to the lender under a loan guarantee agreement an amount not greater than the principal and interest which the borrower is obligated to pay to such lender, if the borrower agrees to reimburse the Secretary for such payment on terms and conditions, including interest, which the Secretary determines are sufficient to protect the financial interests of the United States.

(g)(1) A loan may not be guaranteed under this section unless the applicant for such loan has established to the satisfaction of the Secretary concerned that the lender is not willing without such a guarantee to extend credit to the applicant at reasonable rates and terms, taking into consideration prevailing rates and terms for loans for similar purposes and periods of time, to finance the construction of the biomass energy project for which such loan is sought.

(2) The Secretary concerned shall ensure that the lender bears a reasonable degree of risk in the financing of such project.

PRICE GUARANTEES

42 USC 8815.

SEC. 215. (a) Subject to sections 212 and 217, the Secretary concerned may commit to guarantee, and guarantee, that the price that the owner or operator of any biomass energy project will receive for all or part of the production from that project shall not be less than a specified sales price determined as of the date of execution of the price guarantee or commitment to guarantee.

(b)(1) No price guarantee under this section may be based upon a cost-plus arrangement, or variant thereof, which guarantees a profit to the owner or operator involved.

(2) The use of a cost-of-service pricing mechanism by a person pursuant to law, or by a regulatory body establishing rates for a regulated person, shall not be deemed to be a cost-plus arrangement, or variant thereof, for purposes of paragraph (1).

(c) Each price guarantee, or commitment to guarantee, which is made under this section shall specify the maximum dollar amount of liability of the United States under that guarantee.

(d) If the Secretary determines, in the discretion of the Secretary, that—

(1) a biomass energy project would not otherwise be satisfactorily completed or continued, and

(2) completion or continuation of such project would be necessary to achieve the purposes of this title,

the sales price set forth in the price guarantee, and maximum liability under such guarantee, may be renegotiated.

PURCHASE AGREEMENTS

Conditions.
42 USC 8816.

SEC. 216. (a) Subject to sections 212 and 217, the Secretary concerned may commit to make, and make, purchase agreements for all or part of the biomass energy production of any biomass energy project, if the Secretary determines—

(1) that such biomass energy is of a type, quantity, and quality that can be used by Federal agencies; and

(2) that the quantity of such biomass energy, if delivery is accepted, would not exceed the likely needs of Federal agencies.

Each Secretary concerned shall consult with the other Secretary before making any determination under paragraph (2).

(b) The sales price specified in a purchase agreement under this section may not exceed the estimated prevailing market price as of the date of delivery, as determined by the Secretary of Energy, unless the Secretary concerned determines that such sales price must exceed the estimated prevailing market price in order to ensure the production of biomass energy to achieve the purposes of this title.

Requirements.

(c) The Secretary concerned in entering into, or committing to enter into, a purchase agreement under this section shall require—

(1) assurances that the quality of the biomass energy purchased will meet standards for the use for which such energy is purchased;

(2) assurances that the ordered quantities of such energy will be delivered on a timely basis; and

(3) such other assurances as may reasonably be required.

(d) The Secretary concerned may take delivery of biomass energy pursuant to a purchase agreement under this section if appropriate arrangements have been made for its distribution to and use by one or more Federal agencies. Any Federal agency receiving such energy

shall be charged (in accordance with otherwise applicable law), from sums appropriated to such Federal agency, for the prevailing market price as of the date of delivery, as determined by the Secretary of Energy, for the product which the biomass energy is replacing.

(e) The Secretary concerned shall consult with the Secretary of Defense and the Administrator of the General Services Administration in carrying out this section. Consultation.

(f) Each purchase agreement, and commitment to enter into a purchase agreement, under this section shall provide that the Secretary concerned retains the right to refuse delivery of the biomass energy involved upon such terms and conditions as shall be specified in the purchase agreement. Terms and conditions.

(g) Each purchase agreement, or commitment to enter into a purchase agreement, which is made under this section shall specify the maximum dollar amount of liability of the United States under that agreement.

(h) If the Secretary concerned determines, in the discretion of the Secretary, that—

(1) a biomass energy project would not otherwise be satisfactorily completed or continued, and

(2) completion or continuation of such project would be necessary to achieve the purposes of this title,

the sales price set forth in the purchase agreement, and maximum liability under such agreement, may be renegotiated.

GENERAL REQUIREMENTS REGARDING FINANCIAL ASSISTANCE

SEC. 217. (a)(1) Priority for financial assistance under this subtitle, and the most favorable financial terms available, shall be provided to a person for any biomass energy project that— 42 USC 8817.

(A) uses a primary fuel other than petroleum or natural gas in the production of biomass fuel, such as geothermal energy resources, solar energy resources, or waste heat; or

(B) applies new technologies which expand the possible feedstocks, produces new forms of biomass energy, or produces biomass fuel using improved or new technologies.

Nothing in this paragraph shall be construed to exclude financial assistance for any project which does not use such a fuel or apply such a technology.

(2)(A) Financial assistance under this subtitle shall be available for a biomass energy project only if the Secretary concerned finds that the Btu content of the motor fuels to be used in the facility involved to produce the biomass fuel will not exceed the Btu content of the biomass fuel produced in the facility.

(B) In making the determination under subparagraph (A), the Secretary concerned shall take into account any displacement of motor fuel or other petroleum products which the applicant has demonstrated to the satisfaction of the Secretary would result from the use of the biomass fuel produced in the facility involved.

(3) No financial assistance may be provided under this subtitle to any person for any biomass energy project if the Secretary concerned finds that the process to be used by the project will not extract the protein content of the feedstock for utilization as food or feed for readily available markets in any case in which to do so would be technically and economically practicable.

(4) Financial assistance may not be provided under this subtitle to any person unless the Secretary concerned—

(A) finds that necessary feedstocks are available and it is reasonable to expect they will continue to be available in the future, and, for biomass energy projects using wood or wood wastes or residues from the National Forest System, there shall be taken into account current levels of use by then existing facilities;

(B) has obtained assurance that the person receiving such financial assistance will bear a reasonable degree of risk in the construction and operation of the project; and

(C) has determined that the amount of financial assistance provided for the project is not greater than is necessary to achieve the purposes of this title.

(5) In providing financial assistance under this subtitle, the Secretary concerned shall give due consideration to promoting competition.

Byproducts.

(6) In determining the amount of financial assistance for any biomass energy project which will yield byproducts in addition to biomass energy, the Secretary shall consider the potential value of such byproducts and the costs attributable to their production.

Loan repayments.

(b) An insured loan may not be made, and a loan guarantee may not be issued, under this subtitle unless the Secretary concerned determines that the terms, conditions, maturity, security, and schedule and amounts of repayments with respect to such loan are reasonable and meet such standards as the Secretary determines are sufficient to protect the financial interests of the United States.

Application for financial assistance.

(c)(1) No financial assistance may be provided to any person under this subtitle unless an application therefor—

(A) has been submitted to the Secretary concerned by that person in such form and under such procedures as the Secretary shall prescribe, consistent with the requirements of this subtitle, and

(B) has been approved by the Secretary in accordance with such procedures.

(2) Each such application shall include information regarding the construction costs of the biomass energy project involved, and estimates of operating costs and income relating to that project (including the sale of any byproducts from that project). In addition, each applicant shall provide—

(A) access at reasonable times to such other information, and

(B) such assurances,

as the Secretary concerned may require.

(d)(1) Every recipient of financial assistance under this subtitle shall, as a condition precedent thereto, consent to such examinations and reports regarding the biomass energy project involved as the Secretary concerned may require.

Reports; recordkeeping requirements.

(2) With respect to each biomass energy project for which financial assistance is provided under this subtitle, the Secretary shall—

(A) require from the recipient of financial assistance such reports and records relating to that project as the Secretary deems necessary;

(B) prescribe the manner in which such recipient shall keep such records; and

(C) have access to such records at reasonable times for the purpose of ensuring compliance with the terms and conditions upon which financial assistance is provided.

(e) All contracts and instruments of the Secretary concerned to provide, or providing, for financial assistance shall be general obligations of the United States backed by its full faith and credit.

(f) Subject to the conditions of any contract for financial assistance, such contract shall be incontestable in the hands of the holder, except as to fraud or material misrepresentation on the part of the holder.

(g)(1) A fee or fees may be charged and collected by the Secretary concerned for any loan guarantee, price guarantee, or purchase agreement provided under this subtitle. Fees.

(2) The amount of such fee shall be based on the estimated administrative costs and risk of loss, except that such fee may not exceed 1 per centum of the amount of the financial assistance provided.

(h) All amounts received by the Secretary of Agriculture or the Secretary of Energy as fees, interest, repayment of principal, and any other moneys received by either Secretary from activities under this subtitle shall be deposited in the Treasury of the United States as miscellaneous receipts. The preceding sentence shall not apply to insured loans made under section 213.

REPORTS

SEC. 218. (a) The Secretary of Agriculture and the Secretary of Energy shall each prepare and submit to the President and the Congress quarterly reports on their activities under this subtitle. Submittal to Congress. 42 USC 8818.

(b) Within 120 days after the date of enactment of this Act, the Secretary of Energy and the Secretary of Agriculture shall submit to the Congress a comprehensive list of all the types of loans, grants, incentives, rebates, or any other such private, State, or Federal economic or financial benefits now in effect or proposed which can be or have been used for production of alcohol to be used as a motor fuel or petroleum substitute. List of loans or grants for alcohol production.

(c)(1)(A) The Office of Alcohol Fuels shall submit to the Congress and the President annual reports containing a general description of the Office's operations during the year and a description and evaluation of each biomass energy project for which financial assistance by the Office is then in effect.

(B) Each annual report shall describe progress made toward meeting the goals of this subtitle and contain specific recommendations on what actions the Congress could take in order to facilitate the work of the Office in achieving such goals.

(C) Each annual report under this subsection shall contain financial statements prepared by the Office.

(2) On or before September 30, 1990, the Office shall submit to the Congress and the President a report evaluating the overall impact made by the Office and describing the status of each biomass energy project which has received financial assistance under this subtitle from the Office. Such report shall contain a plan for the termination of the work of the Office. Termination plan.

REVIEW; REORGANIZATION

SEC. 219. (a) The President shall review periodically the progress of the Secretary of Agriculture and the Secretary of Energy in carrying out the purposes of this subtitle. 42 USC 8819.

(b) If the President determines it necessary in order to achieve such purposes the President may, in accordance with the provisions of

5 USC 901 *et seq.*

chapter 9 of title 5, United States Code, provide for a reorganization, including any required realignment of the respective programs of the Secretaries under this subtitle.

ESTABLISHMENT OF OFFICE OF ALCOHOL FUELS IN DEPARTMENT OF ENERGY

42 USC 8820.

SEC. 220. (a) There is hereby established within the Department of Energy an Office of Alcohol Fuels (hereinafter in this section referred to as the "Office") to be headed by a Director, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall be compensated at the rate provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

44 FR 58678.

Functions.

(b)(1) The Director shall be responsible for carrying out the functions of the Secretary of Energy under this subtitle which relate to alcohol, including the terms and conditions of financial assistance and the selection of recipients for that assistance, subject to the general supervision of the Secretary of Energy.

(2) The Director shall be responsible directly to the Secretary of Energy.

(c) In each annual authorization and appropriation request, the Secretary shall identify the portion thereof intended for the support of the Office and include a statement by the Office (1) showing the amount requested by the Office in its budgetary presentation to the Secretary and the Office of Management and Budget and (2) an assessment of the budgetary needs of the Office. Whenever the Office submits to the Secretary, the President, or the Office of Management and Budget, any formal legislative recommendation or testimony, or comments on legislation, prepared for submission to Congress, the Office shall concurrently transmit a copy thereof to the appropriate committees of Congress.

Legislative recommendation or testimony, transmittal to congressional committes.

(d) The Secretary of Energy, after consultation with the Director, shall consult with the Secretary of the Treasury, the Secretary of Agriculture, the Secretary of Transportation, the Secretary of Commerce, the Administrator of the Community Services Administration, the Administrator of the Environmental Protection Agency, or their appointed representatives, in order to coordinate the programs under the Director's responsibility with other programs within the Department of Energy and in such Federal agencies, which are related to the production of alcohol.

TERMINATION

42 USC 8821.

SEC. 221. No insured loan, loan guarantee, price guarantee, or purchase agreement may be committed to or made under this subtitle after September 30, 1984. This section shall not be construed to affect the authority of the Secretary concerned to spend funds after such date pursuant to any contract for financial assistance made on or before that date under this subtitle.

SUBTITLE B—MUNICIPAL WASTE BIOMASS ENERGY

MUNICIPAL WASTE ENERGY DEVELOPMENT PLAN

Plan preparation, consultation.

42 USC 8831.

SEC. 231. (a) The Secretary of Energy shall prepare a comprehensive plan for carrying out this subtitle. In the preparation of such plan, the Secretary shall consult with the Administrator of the Environmental Protection Agency, the Secretary of Commerce, and

the head of such other Federal agencies as the Secretary deems appropriate.

(b) Not later than 90 days after the date of the enactment of this Act, the Secretary shall transmit the comprehensive plan to the President and the Congress. Transmittal to President and Congress.

(c) The comprehensive plan under this section shall include a statement setting forth— Statement.

(1) the anticipated research, development, demonstration, and commercialization objectives to be achieved;

(2) the management structure and approach to be adopted to carry out such plan;

(3) the program strategies, including detailed milestone goals to be achieved;

(4) the specific funding requirements for individual program elements and activities, including the total estimated construction costs of proposed projects; and

(5) the estimated relative financial contributions of the Federal Government and non-Federal participants in the program.

(d) Not later than January 1, 1982, the Secretary shall prepare and submit to the President and the Congress a report containing a complete description of any financial, institutional, environmental, and social barriers to the development and application of technologies for the recovery of energy from municipal wastes. Report to President and Congress.

CONSTRUCTION LOANS

SEC. 232. (a) Subject to sections 235 and 236, the Secretary of Energy may commit to make, and make, loans for the construction of municipal waste energy projects. 42 USC 8832.

(b)(1) Any loan under this section—

(A) may not exceed 80 per centum of the total estimated cost of the construction of the municipal waste energy project involved, and

(B) shall bear interest at a rate determined by the Secretary of Energy (taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans) plus not to exceed one per centum, as determined by the Secretary of Energy, and adjusted to the nearest one-eighth of one per centum.

(2) In the event the total estimated costs of construction of the project thereafter exceed the total estimated costs initially determined by the Secretary of Energy, the Secretary may in addition, upon application therefor, make a loan for so much of the additional estimated costs as does not exceed 10 per centum of the initial total estimated costs of construction.

(c) A loan may not be made under this section unless the person applying for such loan has established to the satisfaction of the Secretary of Energy that the applicant is unable without such a loan to obtain sufficient credit elsewhere at reasonable rates and terms, taking into consideration prevailing market rates and terms for loans for similar periods of time, to finance the construction of the project for which such loan is sought.

GUARANTEED CONSTRUCTION LOANS

42 USC 8833.

SEC. 233. (a) Subject to sections 235 and 236, the Secretary of Energy may commit to guarantee, and guarantee, against loss on up to 90 per centum of the principal and interest, any loan which is made solely to provide funds for the construction of a municipal waste energy project and which does not exceed 90 per centum of the cost of the construction of the project involved, as estimated by the Secretary on the date of the guarantee or commitment to guarantee.

(b) In the event the total estimated costs of construction of the project thereafter exceed the total estimated costs initially determined by the Secretary of Energy, the Secretary may in addition, upon application therefor, guarantee, against loss on up to 90 per centum of the principal and interest, a loan for so much of the additional estimated total costs as does not exceed 10 per centum of the total estimated costs.

Terms and conditions.

(c) The terms and conditions of loan guarantees under this section shall provide that, if the Secretary of Energy makes a payment of principal or interest upon the default by a borrower, the Secretary shall be subrogated to the rights of the recipient of such payment (and such subrogation shall be expressly set forth in the loan guarantee or related agreements).

(d) Any loan guarantee under this section shall not be terminated, canceled, or otherwise revoked, except in accordance with the terms thereof and shall be conclusive evidence that such guarantee complies fully with the provisions of this title and of the approval and legality of the principal amount, interest rate, and all other terms of the securities, obligations, or loans and of the guarantee.

Payment to lender, conditions.

(e) If the Secretary of Energy determines that—

(1) the borrower is unable to meet payments and is not in default,

(2) it is in the public interest to permit the borrower to continue to pursue the purposes of such project, and

(3) the probable net benefit to the United States in paying the principal and interest due under a loan guarantee agreement will be greater than that which would result in the event of a default,

then the Secretary may pay to the lender under a loan guarantee agreement an amount not greater than the principal and interest which the borrower is obligated to pay to such lender, if the borrower agrees to reimburse the Secretary for such payment on terms and conditions, including interest, which the Secretary determines are sufficient to protect the financial interests of the United States.

(f) A loan may not be guaranteed under this section unless the applicant for such loan has established to the satisfaction of the Secretary of Energy that the lender is not willing without such a guarantee to extend credit to the applicant at reasonable rates and terms, taking into consideration prevailing market rates and terms for loans for similar periods of time, to finance the construction of the project for which such loan is sought.

(g)(1) With respect to any loan or debt obligation which is—

(A) issued after the date of the enactment of this Act by, or on behalf of, any State or any political subdivision or governmental entity thereof,

(B) guaranteed by the Secretary of Energy under this section, and

(C) not supported by the full faith and credit of the issuer as a general obligation of the issuer,

the interest paid on such obligation and received by the purchaser thereof (or the purchaser's successors in interest) shall be included in gross income for the purposes of chapter 1 of the Internal Revenue Code of 1954.

26 USC 1 *et seq.*

(2) With respect to the amount of obligations described in paragraph (1) that the issuer would have been able to issue as tax exempt obligations (other than obligations secured by the full faith and credit of the issuer as a general obligation of the issuer), the Secretary of Energy is authorized to pay only to the issuer any portion of the interest on such obligations, as determined by the Secretary of the Treasury after taking into account the interest rate which would have been paid on the obligations had they been issued as tax exempt obligations without being so guaranteed by the Secretary of Energy and the interest rate actually paid on the obligations when issued as taxable obligations. Such payments shall be made in amounts determined by the Secretary of Energy, and in accordance with such terms and conditions as the Secretary of the Treasury shall require.

(h)(1) A fee or fees may be charged and collected by the Secretary of Energy for any loan guarantee under this section.

Fee charge.

(2) The amount of such fee shall be based on the estimated administrative costs and risk of loss, except that such fee may not exceed 1 per centum of the maximum of the guarantee.

PRICE SUPPORT LOANS AND PRICE GUARANTEES

SEC. 234. (a)(1) In the case of any existing municipal waste energy project which produces and sells biomass energy, the Secretary of Energy may commit to make, and make, a price support loan in amounts determined under paragraph (3) for the operation of such project. Payments under any such loan shall be disbursed on an annual basis, as determined (in accordance with paragraph (3)) on the basis of the amount of biomass energy produced and sold by that project during the 12-month period involved and the type and cost of fuel displaced by the biomass energy sold.

42 USC 8834.

(2)(A) In the case of any support loan under this section for an existing municipal waste energy project—

(i) disbursements under such loan may not be made for more than 5 consecutive 12-month periods;

(ii) the amount of the disbursement for the second and any subsequent 12-month period for which disbursements are to be made under the support loan shall be reduced by an amount determined by multiplying the amount calculated under paragraph (3) by a factor determined by dividing the number of 12-month periods for which disbursements are made under the support loan into the number of such periods which have elapsed;

(iii) commencing at the end of the last of such 12-month periods, the support loan shall be repayable over a period equal to the then remaining useful life of the project (as determined by the Secretary) or 10 years, whichever is shorter; and

(iv) commencing at the end of such last 12-month period, such loan shall bear interest at a rate determined by the Secretary of Energy (taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans) plus not to exceed one per centum, as

determined by the Secretary of Energy, and adjusted to the nearest one-eighth of one per centum.

(3) The amount of the loan payment to be disbursed under this subsection for any year with respect to each type of biomass energy produced and sold by an existing municipal waste energy project shall be equal to—

(A)(i) the standard support price reduced by the cost of the fuel displaced by the biomass energy sold, or (ii) $2.00, whichever is lower, multiplied by

(B) the amount of such biomass energy sold (in millions of Btu's).

(b)(1) In the case of any new municipal waste energy project which produces and sells biomass energy, the Secretary of Energy may commit to make, and make, a price support loan in amounts determined in accordance with the provisions of subsection (a), except as provided in paragraph (2).

(2) In the case of any loan under this subsection for a new municipal waste energy project—

(A) disbursements under such loan may not be made for more than 7 consecutive 12-month periods (with reductions as provided in subsection (a)(2)(A)(ii));

(B) such loan shall bear interest at a rate not in excess of the rate prescribed under subsection (a); and

(C) the principal of or interest on such loan shall, in accordance with the support loan agreement, be repayable, commencing at the end of the last 12-month period covered by the support loan, over a period not in excess of the period equal to the then remaining useful life of the project (as determined by the Secretary) or 15 years, whichever is shorter.

(c)(1) In the case of any new municipal waste energy project which produces and sells biomass energy, the Secretary of Energy may commit to make, and make, a price guarantee for the operation of such project which guarantees that the price the owner or operator will receive for all or part of the production from that project shall not be less than a specified sales price determined as of the date of execution of the guarantee agreement.

(2)(A) No price guarantee under this section may be based upon a cost-plus arrangement, or variant thereof, which guarantees a profit to the owner or operator involved.

(B) The use of a cost-of-service pricing mechanism by a person pursuant to law, or by a regulatory body establishing rates for a regulated person, shall not be deemed to be a cost-plus arrangement, or variant thereof, for purposes of subparagraph (A).

(3) In the case of any price guarantee under this subsection for a new municipal waste energy project—

(A) disbursements under such guarantee may not be made for more than 7 consecutive 12-month periods; and

(B) amounts paid under this subsection may be required to be repaid to the Secretary of Energy under such terms and conditions as the Secretary may prescribe, including interest at a rate not in excess of the rate prescribed under subsection (a).

Definitions.

(d) For purposes of this section—

(1) The term "new municipal waste energy project" means any municipal waste energy project which—

(A) is initially placed in service after the date of the enactment of this Act; or

(B) if initially placed in service before such date, has an increased capacity by reason of additional construction, and as such is placed in service after such date.

(2) The term "existing municipal waste energy project" means any municipal waste energy project which is not a new municipal waste project.

(3) The term "placed in service" means operated at more than 50 percent of the estimated operational capacity.

(4)(A) Except as provided in subparagraphs (B) and (C), the term "standard support price" means the average price (per million Btu's) for No. 6 fuel oil imported into the United States on the date of the enactment of this Act, as determined, by rule, by the Secretary of Energy not later than 90 days after the date of the enactment of this Act.

(B) In any case in which the fuel displaced is No. 6 fuel oil or any higher grade of petroleum (as determined by the Secretary of Energy), the term "standard support price" means 125 per centum of the price determined by rule under subparagraph (A).

(C) In any case in which biomass energy produced and sold by a project is steam or electricity, the term "standard support price" means the price determined by rule under subparagraph (A), subject to such adjustments as the Secretary of Energy may authorize by rule.

(5) The term "cost of the fuel displaced" means the cost of the fuel (per million Btu's) which the purchaser of biomass energy would have purchased if the biomass energy had not been available for sale to that purchaser.

(6) Any biomass energy produced by a municipal waste energy project which may be retained for use by the owner or operator of such project shall be considered to be sold at such price as the Secretary of Energy determines.

(7) Not later than 90 days after the date of the enactment of this Act, the Secretary of Energy shall prescribe, by rule, the manner of determining the fuel displaced by the sale of any biomass energy, and the price of the fuel displaced.

GENERAL REQUIREMENTS REGARDING FINANCIAL ASSISTANCE

SEC. 235. (a)(1) Priority for financial assistance under the provisions of sections 232, 233, and 234, and the most favorable financial terms available, shall be provided for any municipal waste energy project that will— 42 USC 8835.

(A) produce a liquid fuel from municipal waste; or

(B) will displace petroleum or natural gas as a fuel.

(2)(A) With respect to projects producing biomass energy other than biomass fuel, financial assistance under the provisions of sections 232, 233, and 234 shall be available only if the Secretary of Energy finds that the project does not use petroleum or natural gas except for flame stabilization or start-up. Biomass energy projects.

(B) With respect to projects producing biomass fuel, financial assistance under such provisions shall be available to such project only if the Secretary of Energy finds that the Btu content of the biomass fuel produced substantially exceeds the Btu content of any petroleum or natural gas used in the project to produce the biomass fuel. Btu content.

(3) Financial assistance may not be provided under section 232, 233, or 234 unless the Secretary of Energy finds that necessary municipal

waste feedstocks are available and it is reasonable to expect they will continue to be available for the expected economic life of the project.

(4) In providing financial assistance under section 232, 233, or 234, the Secretary of Energy shall give due consideration to promoting competition.

Byproducts, value and production costs

(5) In determining the amount of financial assistance for any municipal waste energy project which will yield byproducts in addition to biomass energy, the Secretary shall consider the value of such byproducts and the costs attributable to their production.

(6) The Secretary of Energy shall not provide financial assistance under section 232, 233, or 234 for any municipal waste energy unless the Secretary determines—

(A) the project will be technically and economically viable;

(B) the financial assistance provided encourages and supplements, but does not compete with nor supplant, any private capital investment which otherwise would be available to the proposed municipal waste energy project on reasonable terms and conditions which would permit such project to be undertaken;

(C) assurances are provided that the project will not use, in any substantial quantities, waste paper which would otherwise be recycled for a use other than as a fuel and will not substantially compete with facilities in existence on the date of the financial assistance which are engaged in the separation or recovery of reuseable materials from municipal waste; and

(D) that the amount of financial assistance provided for the project is not greater than is necessary to achieve the purposes of this title.

(b) Financial assistance may not be provided under section 232, 233, or 234 unless the Secretary of Energy determines that—

(1) the terms, conditions, maturity, security and schedule and amounts of repayments with respect to such assistance are reasonable and meet such standards as the Secretary determines are sufficient to protect the financial interests of the United States; and

(2) the person receiving such financial assistance will bear a reasonable degree of risk with respect to the project.

Application

(c)(1) No financial assistance may be provided to any person under section 232, 233, or 234 unless an application therefor—

(A) has been submitted to the Secretary of Energy by such person in such form and under such procedures as the Secretary shall prescribe, consistent with the requirements of this subtitle, and

(B) has been approved by the Secretary in accordance with such procedures.

(2) Each such application shall include information regarding the construction costs of the municipal waste energy project involved (if appropriate), and estimates of operating costs and income relating to that project (including the sale of any byproducts from that project). In addition, each applicant shall provide—

(A) access at reasonable times to such other information, and

(B) such assurances,

as the Secretary of Energy may require.

(d)(1) Every person receiving financial assistance under section 232, 233, or 234 shall, as a condition precedent thereto, consent to such examinations and reports thereon regarding the municipal waste energy project involved as the Secretary of Energy may require.

(2) With respect to each municipal waste energy project for which financial assistance is provided under section 232, 233, or 234, the Secretary shall—

(A) require from the recipient of financial assistance such reports and records relating to that project as the Secretary deems necessary;

(B) prescribe the manner in which such recipient shall keep such records, and

(C) have access to such records at reasonable times for the purpose of ensuring compliance with the terms and conditions upon which financial assistance is provided.

(e) All amounts received by the Secretary of Energy as fees, interest, repayment of principal, and any other moneys received by the Secretary from operations under section 232, 233, or 234 shall be deposited in the general fund of Treasury of the United States as miscellaneous receipts.

(f) All contracts and instruments of the Secretary of Energy to provide, or providing, for financial assistance shall be general obligations of the United States backed by its full faith and credit.

(g) Subject to the conditions of any contract for financial assistance, such contract shall be incontestable in the hands of the holder, except as to fraud or material misrepresentation on the part of the holder.

(h) Notwithstanding the provisions of the Federal Financing Bank Act of 1973 (12 U.S.C. 2281 et seq.) or any other provision of law (except as may be specifically provided by reference to this subsection in any Act enacted after the date of the enactment of this Act), no debt obligation which is made or committed to be made, or which is guaranteed or committed to be guaranteed by the Secretary of Energy under section 232, 233, or 234 shall be eligible for purchase by, or commitment to purchase by, or sale or issuance to, the Federal Financing Bank or any Federal agency.

FINANCIAL ASSISTANCE PROGRAM ADMINISTRATION

SEC. 236. The Secretary of Energy shall establish procedures and take such other actions as may be necessary regarding the solicitation, review, and evaluation of applications, and awarding of financial assistance under section 232, 233, or 234 as may be necessary to carry out the plan established under section 231. 42 USC 8836.

COMMERCIALIZATION DEMONSTRATION PROGRAM PURSUANT TO FEDERAL NONNUCLEAR ENERGY RESEARCH AND DEVELOPMENT ACT OF 1974

SEC. 237. (a)(1) The Secretary of Energy shall establish and conduct, pursuant to the authorities contained in the Federal Nonnuclear Energy Research and Development Act of 1974, an accelerated research, development, and demonstration program for promoting the commercial viability of processes for the recovery of energy from municipal wastes. 42 USC 8837. 42 USC 5901 note

(2) The provisions of subsections (d), (m), and (x)(2) of section 19 of such Act shall not apply with respect to the program established under this section. 42 USC 5919

(3) As part of the program established under this section, the Secretary, after consulting with the Administrator of the Environmental Protection Agency and the Secretary of Commerce, shall undertake—

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(A) the research, development, and demonstration of technologies to recover energy from municipal wastes;

(B) the development and application of new municipal waste-to-energy recovery technologies;

(C) the assessment, evaluation, demonstration, and improvement of the performance of existing municipal waste-to-energy recovery technologies with respect to capital costs, operating and maintenance costs, total project financing, recovery efficiency, and the quality of recovered energy and energy intensive materials;

(D) the evaluation of municipal waste energy projects for the purpose of developing a base of engineering data that can be used in the design of future municipal waste energy projects to recover energy from municipal wastes; and

(E) research studies on the size and other significant characteristics of potential markets for municipal waste-to-energy recovery technologies, and recovered energy, and energy intensive materials.

Financial assistance.

(b) Under such program, the Secretary of Energy may provide financial assistance consisting of price supports, loans, and loan guarantees, for the cost of planning, designing, constructing, operating, and maintaining demonstration facilities, and, in the case of existing facilities, modifications of such facilities solely for demonstration purposes, for the conversion of municipal wastes into energy or the recovery of materials.

Priority for funding.

(c) Priority for funding of activities under subsection (a) and financial assistance under subsection (b) shall be provided for any activity or project for the demonstration of technologies for the production of liquid fuels or biomass energy which substitute for petroleum or natural gas.

(d) The Secretary of Energy may not obligate or expend any funds authorized under this title in carrying out subsection (b) of this section until the plan required under section 231(a) has been prepared and submitted to the Congress.

(e) All amounts received by the Secretary of Energy as fees, interest, repayment of principal, and any other moneys received by the Secretary from operations under this section shall be deposited in the general fund of the Treasury of the United States as miscellaneous receipts.

JURISDICTION OF DEPARTMENT OF ENERGY AND ENVIRONMENTAL PROTECTION AGENCY

42 USC 8838.
42 USC 5920.

SEC. 238. The provisions of section 20(c) of the Federal Nonnuclear Research and Development Act of 1974, relating to the responsibilities of the Environmental Protection Agency and the Department of Energy, shall apply with respect to actions under this subtitle to the same extent and in the same manner as such provisions apply to actions under section 20 of such Act.

ESTABLISHMENT OF OFFICE OF ENERGY FROM MUNICIPAL WASTE IN DEPARTMENT OF ENERGY

42 USC 8839.

SEC. 239. (a) There is hereby established within the Department of Energy an Office of Energy from Municipal Waste (hereinafter in this section referred to as the "Office") to be headed by a Director, who shall be appointed by the Secretary of Energy.

(b) It shall be the function of the Office to perform— Functions.

(1) the research, development, demonstration, and commercialization activities authorized under this subtitle (including those authorized under section 237), and

(2) such other duties relating to the production of energy from municipal waste as the Secretary of Energy may assign to the Office.

(c) In carrying out functions tranferred or assigned to the Office, the Secretary of Energy shall consult with the Administrator of the Environmental Protection Agency, the Secretary of Commerce, and the heads of such other Federal agencies, as appropriate. Consultation with Federal agencies.

(d) The Secretary shall provide for the transfer to the Office of the functions relating to, and personnel of the Department who are responsible for the administration of, programs in existence on the date of the enactment of this Act which relate to the research, development, demonstration, and commercialization of technologies for the recovery of energy from municipal waste.

TERMINATION

SEC. 240. No financial assistance may be committed to or made under this subtitle after September 30, 1984. This section shall not be construed to affect the authority of the Secretary of Energy to spend funds after such date pursuant to any award of financial assistance made on or before that date. 42 USC 8840.

SUBTITLE C—RURAL, AGRICULTURAL, AND FORESTRY BIOMASS ENERGY

MODEL DEMONSTRATION BIOMASS ENERGY FACILITIES

SEC. 251. (a) The Secretary of Agriculture shall establish not more than ten model demonstration biomass energy facilities for purposes of exhibiting the most advanced technology available for producing biomass energy. Such facilities and information regarding the operation of such facilities shall be available for public inspection, and, to the extent practicable, such facilities shall be established in various regions in the United States. Such facilities may be established in cooperation with appropriate departments or agencies of the States, or appropriate departments, agencies, or other instrumentalities of the United States. 42 USC 8851. Public inspection, availability. Cooperation with State and Federal agencies.

(b) For purposes of carrying out subsection (a), there is authorized to be appropriated $5,000,000 for each of the fiscal years 1981, 1982, 1983, and 1984. Appropriation authorization.

BIOMASS ENERGY RESEARCH AND DEMONSTRATION PROJECTS

SEC. 252. Section 1419 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3154) is amended—

(1) by striking out "colleges and universities" the first place it appears and inserting in lieu thereof "colleges, universities, and Government corporations";

(2) by striking out "(2) alcohol made from agricultural commodities and forest products as a substitute for alcohol made from petroleum products," and inserting in lieu thereof the following

new paragraph: "(2) alcohol and other forms of biomass energy as substitutes for petroleum or natural gas,";

(3) by inserting after the first sentence thereof the following: "The authority to conduct research under paragraph (2) does not include authority to conduct research with respect to technology demonstrations of integrated systems for commercialization of technologies for applications other than agricultural or uniquely rural applications. The Secretary may make grants under this subsection to such colleges, universities, and Government corporations for the purpose of conducting research relating to the development of the most economical and commercially feasible means of collecting and transporting wastes, residues, and by-products for use as feedstocks for the production of alcohol and other forms of biomass energy. At least 25 per centum of the amount appropriated in any fiscal year for research under paragraph (2) shall be made available for grants under this subsection for research, relating to the production of alcohol, to identify and develop agricultural commodities, including alfalfa, sweet sorghum, black locust, and cheese whey, which may be suitable for such production. At least 25 per centum of the amount appropriated in any fiscal year for research under paragraph (2) shall be made available for grants under this subsection for research relating to the development of technologies for increasing the energy efficiency and commercial feasibility of alcohol production, including processes of cellulose conversion and cell membrane technology.";

Grants for research.

(4) by striking out "section" each place it appears and inserting in lieu thereof "subsection";

(5) by inserting "(a)" after "SEC. 1419.";

(6) by adding at the end of subsection (a), as so designated, the following new sentence: "In addition to the authorization of appropriations provided in the preceding sentence, there is authorized to be appropriated for grants to conduct research described in paragraph (2) and in the third sentence of this subsection $12,000,000 for each of the fiscal years ending September 30, 1981; September 30, 1982; September 30, 1983; and September 30, 1984."; and

Appropriation authorization.

(7) by adding at the end thereof the following new subsection:

"(b) For purposes of subsection (a)—

Definitions.

"(1) the term 'biomass' means any organic matter which is available on a renewable basis, including agricultural crops and agricultural wastes and residues, wood and wood wastes and residues, and animal wastes, except that such term does not include aquatic plants and municipal wastes;

"(2) the term 'biomass energy' means any gaseous, liquid, or solid fuel produced by conversion of biomass, and energy or steam derived from the direct combustion of biomass for the generation of electricity, mechanical power, or industrial process heat; and

"(3) the term 'municipal wastes' means any organic matter, including sewage, sewage sludge, and industrial or commercial waste, and mixtures of such matter and inorganic refuse—

"(i) from any publicly or privately operated municipal waste collection or similar disposal system; or

"(ii) from similar waste flows (other than such flows which constitute agricultural wastes or residues, or wood wastes or

residues from wood harvesting activities or production of forest products).".

APPLIED RESEARCH REGARDING ENERGY CONSERVATION AND BIOMASS ENERGY PRODUCTION AND USE

SEC. 253. The third sentence of section 1 of the Act of June 29, 1935 (49 Stat. 436; 7 U.S.C. 427), commonly known as the Bankhead-Jones Act, is amended by inserting "applied research to develop agricultural, forestry, and rural energy conservation and biomass energy production and use;" after "irrigation);".

FORESTRY ENERGY RESEARCH

SEC. 254. Section 3(a) of the Forest and Rangeland Renewable Resources Research Act of 1978 (16 U.S.C. 1642(a)) is amended—

(1) in paragraph (1) by inserting "energy production, activities related to energy conservation," after "wilderness,"; and

(2) in paragraph (4) by inserting "producing and conserving energy;" after "wood fiber;".

BIOMASS ENERGY EDUCATIONAL AND TECHNICAL ASSISTANCE

SEC. 255. (a) Subtitle B of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3121-3128) is amended by adding at the end thereof the following new section:

"BIOMASS ENERGY EDUCATIONAL AND TECHNICAL ASSISTANCE PROGRAMS

7 USC 3129.

"SEC. 1413A. (a) The Secretary, in cooperation with State directors of cooperative extension, administrators of extension for land-grant colleges and universities, State foresters or equivalent State officials, and the heads of other Federal departments and agencies, shall provide educational programs for producers of agricultural commodities, wood, and wood products to—

"(1) inform such producers of the feasibility of using biomass for energy;

"(2) disseminate to such producers information regarding the results of research regarding the use of biomass for energy;

"(3) inform such producers of the best available technology for the use of biomass for energy;

"(4) provide technical assistance to such producers to improve their ability to efficiently use biomass for energy; and

"(5) disseminate to such producers the results of research on energy conservation techniques and encourage such producers to adopt such techniques.

"(b) All appropriate educational methods, including meetings, short courses, workshops, tours, demonstrations, publications, news releases, and radio and television programs, may be used to carry out subsection (a).

State plan.

"(c) The State director of cooperative extension in each State shall develop a single, comprehensive, and coordinated plan which includes every biomass energy educational and technical assistance program in effect or proposed in such State, except that in those States which contain more than one land-grant college or university, such plan shall be jointly developed by the administrative heads of

extension of such institutions. Such plan shall be developed with the full participation of the State forester or the equivalent State official of such State. Each State's plan shall be submitted to the Secretary annually for approval. The Advisory Board shall review and make recommendations to the Secretary pertaining to programs conducted under this section. Each State shall submit an annual progress report on the operation of its plan to the Secretary before January 1 following the fiscal year for which such report is made.

Review.

Annual report.

"(d) Funds made available under this section shall be provided to the State director of cooperative extension and the administrators of extension for land-grant colleges and universities in each State in a manner consistent with the effective implementation of this section.

Definitions.

"(e) For purposes of this section—

"(1) the term 'biomass' means any organic matter which is available on a renewable basis, including agricultural crops and agricultural wastes and residues, wood and wood wastes and residues, and animal wastes, except that such term does not include aquatic plants and municipal wastes;

"(2) the term 'biomass energy' means any gaseous, liquid, or solid fuel produced by conversion of biomass, and energy or steam derived from the direct combustion of biomass for the generation of electricity, mechanical power, or industrial process heat; and

"(3) the term 'municipal wastes' means any organic matter, including sewage, sewage sludge, and industrial or commercial waste, and mixtures of such matter and inorganic refuse—

"(i) from any publicly or privately operated municipal waste collection or similar disposal system; or

"(ii) from similar waste flows (other than such flows which constitute agricultural wastes or residues, or wood wastes or residues from wood harvesting activities or production of forest products).

Appropriation authorization.

"(f) There is authorized to be appropriated to carry out this section $10,000,000 for each of the fiscal years 1981, 1982, 1983, and 1984.".

(b) The table of contents of the Food and Agriculture Act of 1977 (91 Stat. 913) is amended by inserting after the item relating to section 1413 the following new item:

"Sec. 1413A. Biomass energy educational and technical assistance programs.".

RURAL ENERGY EXTENSION WORK

SEC. 256. The Act of May 14, 1914 (38 Stat. 372; 7 U.S.C. 341-349), commonly known as the Smith-Lever Act, is amended—

7 USC 341.

(1) in section 1 by striking out "and home economics," and inserting in lieu thereof ", home economics, and rural energy,"; and

7 USC 342.

(2) in section 2 by striking out "and home economics" and inserting in lieu thereof ", home economics, and rural energy".

COORDINATION OF RESEARCH AND EXTENSION ACTIVITIES

42 USC 8852.

SEC. 257. (a) The Secretary of Agriculture shall coordinate the applied research and extension programs conducted under this subtitle and under the amendments made by this subtitle to section 1419 and subtitle B of the National Agricultural Research, Extension, and Teaching Policy Act of 1977, section 1 of the Bankhead-Jones Act, section 3 of the Forest and Rangeland Renewable Resources Research

7 USC 3154, 3121-3128, 427.

Act of 1978, and sections 1 and 2 of the Smith-Lever Act with the programs of the Department of Energy. 16 USC 1642. 7 USC 341, 342.

(b) In carrying out this subtitle and the amendments made by this subtitle, the Secretary of Agriculture shall consult on a continuing basis with—

(1) the Subcommittee on Food and Renewable Resources of the Federal Coordinating Council for Science, Engineering, and Technology;

(2) the Joint Council on Food and Agricultural Sciences; and

(3) the National Agricultural Research and Extension Users Advisory Board;

for the purpose of coordinating research and extension activities.

LENDING FOR ENERGY PRODUCTION AND CONSERVATION PROJECTS BY PRODUCTION CREDIT ASSOCIATIONS, FEDERAL LAND BANKS, AND BANKS FOR COOPERATIVES

SEC. 258. The Farm Credit Administration shall encourage production credit associations, Federal land banks, and banks for cooperatives to use existing authorities to make loans to eligible persons for commercially feasible biomass energy projects. 42 USC 8853.

AGRICULTURAL CONSERVATION PROGRAM; ENERGY CONSERVATION COST SHARING

SEC. 259. Section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) is amended—

(1) in the first sentence by inserting "(including energy conservation)" after "conservation"; and

(2) by inserting after the first undesignated paragraph the following new undesignated paragraph:

"The Secretary may provide financial assistance to agricultural producers for the purpose of encouraging energy conservation by sharing the costs of and providing technical assistance for (1) the establishment, restoration, and better use of shelter belts to conserve energy on farmsteads and feed lots, (2) the establishment and use of minimum tillage systems, (3) the efficient storage and application of manure and other suitable wastes to the land for land fertility and soil improvement, (4) the use of integrated pest management, (5) the use of energy-efficient irrigation water management, and (6) such other land, water, and related resource management practices as the Secretary may determine to have significant energy-conserving effects.".

PRODUCTION OF COMMODITIES ON SET-ASIDE ACREAGE

SEC. 260. (a) The Food and Agriculture Act of 1977 (91 Stat. 913) is amended by adding at the end thereof the following new title:

"TITLE XX—PRODUCTION OF COMMODITIES ON SET-ASIDE ACREAGE

"SEC. 2001. (a) The Secretary of Agriculture shall permit, subject to such terms and conditions as the Secretary shall prescribe, all or any part of the acreage set aside or diverted under the Agricultural Act of 1949 from the production of a commodity for any crop year to be devoted to the production of any commodity for conversion into alcohol or hydrocarbons for use as motor fuel or other fuel, if the 7 USC 1435.

Secretary of Agriculture determines that such production is desirable in order to provide an adequate supply of commodities for such conversion, is not likely to increase the cost of price support programs, and will not adversely affect farm income.

Production of commodities for fuel, administration. 7 USC 1421 note.

"(b)(1) During any year in which no set-aside or diversion of acreage is in effect under the Agricultural Act of 1949, the Secretary of Agriculture may formulate and administer a program for the production, subject to such terms and conditions as he may prescribe, of commodities for conversion into alcohol or hydrocarbons for use as motor fuel or other fuel. Under such program, producers of wheat, feed grains, upland cotton, and rice shall be paid incentive payments to devote a portion of their acreage to such production.

Payment rates.

"(2) The payments under this subsection shall be made at such rate or rates as the Secretary of Agriculture determines to be fair and reasonable, taking into consideration the participation necessary to ensure an adequate supply of commodities for such conversion.

"(3) The Secretary may issue any regulations necessary to carry out the provisions of this subsection.

Appropriation authorization.

"(4) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this subsection.".

(b) The table of contents of the Food and Agriculture Act of 1977 (91 Stat. 913) is amended by adding at the end thereof the following new items:

"TITLE XX—PRODUCTION OF COMMODITIES ON SET-ASIDE ACREAGE

"Sec. 2001. Production of commodities on set-aside acreage.".

UTILIZATION OF NATIONAL FOREST SYSTEM IN WOOD ENERGY DEVELOPMENT PROJECTS

42 USC 8854.

SEC. 261. The Secretary of Agriculture may make available the timber resources of the National Forest System, in accordance with appropriate timber appraisal and sale procedures, for use by biomass energy projects.

FOREST SERVICE LEASES AND PERMITS

42 USC 8855.

SEC. 262. It is the intent of the Congress that the Secretary of Agriculture shall process applications for leases of National Forest System lands and for permits to explore, drill, and develop resources on land leased from the Forest Service, notwithstanding the current status of any plan being prepared under section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604).

SUBTITLE D—MISCELLANEOUS BIOMASS PROVISIONS

USE OF GASOHOL IN FEDERAL MOTOR VEHICLES

42 USC 8871.

SEC. 271. (a) The President shall, by executive order, require that motor vehicles which are owned or leased by Federal agencies and are capable of operating on gasohol shall use gasohol where available at reasonable prices and in reasonable quantities.

Exceptions.

(b) The President may provide for exceptions to the requirement of subsection (a) where necessary, including to protect the national security.

(c) Such executive order shall specify the alcohol-gasoline mixture or mixtures which shall constitute "gasohol" for purposes of such order, as well as specifications for its use. Gasohol.

MOTOR VEHICLE ALCOHOL USAGE STUDY

SEC. 272. The Secretary of Energy shall, in consultation with the Secretary of Transportation, submit to the Congress within 9 months after the date of the enactment of this Act a report on— Report to Congress.

(1) the need for, and practicality of, mandating through legislation that any new motor vehicle sold in the United States shall be capable of using alcohol as a motor fuel in specified alcohol-gasoline mixtures, or using alcohol as the only fuel;

(2) the need for any other legislation to address technical or institutional barriers to the widespread marketing of alcohol, including requirements that would mandate specified proportions of alcohol in all motor gasoline sold; and

(3) any other aspects of the use of alcohol as a motor fuel, as the Secretary considers appropriate.

NATURAL GAS PRIORITIES

SEC. 273. For the purposes of section 401 of the Natural Gas Policy Act of 1978 (Public Law 95-621), the term "essential agricultural use" shall— Essential agricultural use. 15 USC 3391a. 15 USC 3391.

(1) include use of natural gas in sugar refining for production of alcohol;

(2) include use of natural gas for agricultural production on set-aside acreage or acreage diverted from the production of a commodity (as provided under the Agricultural Act of 1949) to be devoted to the production of any commodity for conversion into alcohol or hydrocarbons for use as motor fuel or other fuels; and 7 USC 1421 note.

(3) for the 5-year period beginning on the date of the enactment of this Act, include use of natural gas in the distillation of fuel-grade alcohol from food grains or other biomass by facilities in existence on the date of the enactment of this Act which do not have the installed capability to burn coal lawfully.

STANDBY AUTHORITY FOR ALLOCATION OF ALCOHOL FUEL

SEC. 274. Section 4 of the Emergency Petroleum Allocation Act of 1973 is amended by adding at the end thereof the following new subsection: 15 USC 753.

"(f)(1) If the President finds that there are significant quantities of alcohol available for use in motor fuel that are not being used for that purpose because of an unavailability of crude oil with respect to a refiner or unavailability of gasoline with respect to persons engaged in marketing of petroleum products, the President shall, to the extent practicable and subject to the provisions of this Act, use the authorities under subsection (a) to provide for the allocation of—

"(A) crude oil to refineries engaged in the production of refined petroleum products to be mixed with alcohol, and

"(B) refined petroleum products to persons engaged in the marketing of petroleum products,

so as to result in the use of such quantities of alcohol in motor fuel.

"(2) In exercising such authorities pursuant to this subsection, the President shall—

"(A) seek to avoid disruption of crude oil and refined petroleum product markets and to avoid causing unreasonable increases in the price of alcohol, and

"(B) give due consideration to the adequacy of quality control in any refinery operations related to the receipt of an allocation of crude oil.

"Alcohol."

"(3) For the purposes of this subsection, 'alcohol' means methanol, ethanol, or any other alcohol which is produced from any source and which is suitable for use in combination with other fuels as a motor fuel.

"(4) Nothing in this subsection shall limit the allocation authorities under subsection (a).".

TITLE III—ENERGY TARGETS

PREPARATION OF ENERGY TARGETS

Transmittal to Congress.
42 USC 7361.

SEC. 301. (a) During the first calendar week beginning in February of 1981, and of every second year thereafter, the President shall transmit to the Congress energy targets for net imports, domestic production, and end-use consumption of energy for the calendar years 1985, 1990, 1995, and 2000. Such targets shall be transmitted in the form prescribed in section 303.

(b) In preparing energy targets under this section, the President shall take into account anticipated energy conservation and anticipated production of energy from new technologies, and shall transmit with the targets supporting data together with a statement of the assumptions on which the targets are based.

(c) During the first calendar week beginning in February of 1982, and of every second year thereafter, the President shall transmit to the Congress reports regarding the energy targets transmitted during the preceding year.

(d) The President shall not transmit any revised target (or supporting data) for any calendar year which has then elapsed.

CONGRESSIONAL CONSIDERATION

DOE authorization bills.
42 USC 7362.

SEC. 302. (a)(1) Any Department of Energy authorization bill for fiscal year 1982 and any such bill for fiscal year 1984 which is proposed in an executive communication to the Congress shall include the targets required by section 301(a) to be transmitted in February of the preceding fiscal year. Such targets shall be in the form prescribed in section 303 and shall be set forth as a separate title at the end of the proposed bill.

Transmittal to Congress.

(2) The energy targets transmitted to the Congress under section 301 shall be considered by any committee of the House of Representatives or the Senate in connection with any Department of Energy authorization bill for fiscal year 1982 or fiscal year 1984. This paragraph shall apply during the Ninety-seventh Congress and the Ninety-eighth Congress, and during any subsequent Congress (with respect to Department of Energy authorization bills for later fiscal years) to the extent expressly provided in any Act (other than an appropriation Act) approved after the date of the enactment of this Act.

Amendments.

(3)(A) During the Ninety-seventh Congress and the Ninety-eighth Congress, it shall be in order (notwithstanding any rule or provision of law) during the consideration in the House of Representatives, in

the Senate, or in any committee of either, of any Department of Energy authorization bill for fiscal year 1982 or fiscal year 1984, or a joint resolution (as defined in subsection (d)(1)(B)), to offer and consider, except as provided in subparagraph (B)—

(i) any amendment (or series of amendments) only changing the number of any energy target contained in such bill or resolution, or

(ii) in the case of any such authorization bill, any amendment only adding a title containing only energy targets in the form prescribed in section 303 if such bill does not contain such a title, or only deleting such a title contained in such bill.

(B) Any amendment (or series of amendments) referred to in subparagraph (A) shall not be in order unless it continues or achieves mathematical consistency within the targets.

Reporting dates.

(b)(1) If—

(A) on or before May 15, 1981, no Department of Energy authorization bill for fiscal year 1982 has been reported to either House of the Congress by any of the respective authorizing committees, or

(B) no committee which has reported such an authorization bill in either House by such date has included energy targets in the form prescribed in section 303 as a separate title,

a joint resolution introduced in the Senate or the House of Representatives after such date shall be subject to the provisions of this section and shall immediately be referred to the appropriate authorizing committees, which shall have until July 15, 1981, to consider and report such resolution.

Joint resolutions.

(2) If on or before July 15, 1981, the appropriate authorizing committees of the House of Representatives or the Senate have not reported such a joint resolution, such committees of that House may be discharged from further consideration of such joint resolution (or any other joint resolution) in accordance with paragraph (4) of section 552(d) of the Energy Policy and Conservation Act (as if it were a resolution relating to a contingency plan) if a motion for such a discharge is made during the period of 20 calendar days of continuous session of Congress which follows July 15, 1981.

42 USC 6422.

(3) The provisions of subsections (c) and (d)(5) and (6) of section 552 of such Act shall apply with respect to the consideration of such a joint resolution in either House, except that—

(A) debate on such joint resolution shall be limited to not more than 3 hours,

(B) it shall be in order (notwithstanding any rule or provision of law) to offer and consider any amendment (or series of amendments) permitted under subsection (a)(3), and

(C) the references in such provisions to any resolution relating to a contingency plan shall be considered to refer to a joint resolution under this section.

(c) In the consideration of any Department of Energy authorization bill containing a title setting forth energy targets, the question of whether any amendment (other than an amendment referred to in subsection (a)(3)) to any portion of such bill (including such title) is in order in the House of Representatives, in the Senate, or in any committee of either, shall be determined as if the title containing such targets were not in the bill.

Definitions.

(d)(1) For purposes of this section—

(A) the term "Department of Energy authorization bill" means any general authorization of appropriations for the civilian programs and activities of the Department of Energy;

(B) the term "joint resolution" means only a joint resolution of either House of Congress (i) which is entitled "Joint resolution relating to energy targets.", (ii) which does not contain a preamble, and (iii) the matter after the resolving clause of which only contains energy targets in the form prescribed by section 303; and

(C) the term "energy target" means any number contained in the form prescribed in section 303.

Rulemaking powers.

(2) This section is enacted by Congress—

(A) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of Department of Energy authorization bills and joint resolutions described by paragraph (1) of this subsection; and it supersedes other rules only to the extent that it is inconsistent therewith; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of the House.

ENERGY TARGET FORM

42 USC 7363.

SEC. 303. (a) For purposes of this title, energy targets shall be set forth in the following form:

ENERGY TARGETS

[Quadrillion Btu's per year]

	1985	1990	1995	2000
Domestic production:				
Crude oil and NGL				
Natural gas				
Coal				
Nuclear				
Renewables and geothermal				
Other				
Subtotal				
Imports:				
Crude oil and refined petroleum				
Natural gas				
Coal				
Other				
Subtotal				
Total supply				
End-use consumption:				
Petroleum liquids				
Natural gas				
Direct coal				
Electricity				
Decentralized renewables				
Other				
Subtotal				
Conversion loss				
Total consumption				

Definitions.

(b) As used in subsection (a)—

(1) the term "crude oil and NGL" includes liquid products obtained from lease operations, field facilities, and natural gas processing plants and liquid petroleum obtained from shale and tarsands;

(2) the term "coal", when used under the domestic production category, includes coal which is converted to gaseous or liquid fuels;

(3) the term "renewables" includes energy or fuel derived directly from sunlight or from biomass (as defined in section 203), and hydropower sources; *Ante*, p. 683.

(4) the term "end-use consumption" does not include exports of fuel or electricity;

(5) the term "decentralized renewables" does not include electricity produced for delivery to multiple points of end-use consumption; and

(6) the term "conversion loss" includes heat or other forms of energy not recovered in the conversion of raw energy resources, fuels, or electricity into alternate form prior to delivery for end-use consumption.

GENERAL PROVISIONS REGARDING TARGETS

SEC. 304. (a) The energy targets set forth pursuant to this title in any joint resolution or any Act authorizing appropriations for the Department of Energy shall be considered as an expression of national goals and shall not be considered to have any legal force or effect. 42 USC 7364.

(b) Expenses paid or incurred by the President for preparing the energy targets and reports under this title shall be from funds otherwise available to the Department of Energy, consistent with otherwise applicable law. Such targets and reports shall be prepared using the minimum extent of contracting assistance that is required for their preparation. If any assistance is required to be obtained by contract for the preparation of the targets and reports, that assistance shall be limited to the providing of supporting information and may not include the preparation or recommendation of any proposed or final energy target. Expenses.

(c) The preparation and transmission of such targets or reports shall not be considered a major Federal action for the purposes of the National Environmental Policy Act of 1969. 42 USC 4321 note.

TITLE IV—RENEWABLE ENERGY INITIATIVES

SHORT TITLE

SEC. 401. This title may be cited as the "Renewable Energy Resources Act of 1980". Renewable Energy Resources Act of 1980.

PURPOSE

SEC. 402. The purpose of this title is to establish incentives for the use of renewable energy resources, to improve and coordinate the 42 USC 7371 note. 42 USC 7371.

dissemination of information to the public with respect to renewable energy resources, to encourage the use of certain cost effective solar energy systems and conservation measures by the Federal Government, to establish a program for the promotion of local energy self-sufficiency, to broaden the existing program for accelerating the procurement and use of photovoltaic systems, and to provide further encouragement for the development of small hydroelectric power projects.

DEFINITIONS

42 USC 7372.

SEC. 403. For purposes of this title—

(1) the term "Secretary" means the Secretary of Energy; and

(2) the term "renewable energy resource" means any energy resource which has recently originated in the sun, including direct and indirect solar radiation and intermediate solar energy forms such as wind, ocean thermal gradients, ocean currents and waves, hydropower, photovoltaic energy, products of photosynthetic processes, organic wastes, and others.

COORDINATED DISSEMINATION OF INFORMATION ON RENEWABLE ENERGY RESOURCES AND CONSERVATION

42 USC 7373.

SEC. 404. In order to improve the effectiveness of Federal information dissemination activities in the fields of renewable energy resources and energy conservation with the objective of developing and promoting better public understanding of these resources and their potential uses, the Secretary shall—

(1) take affirmative steps to coordinate all of the activities of the Department of Energy, whether conducted by the Department itself or by other public or private entities with assistance from the Department, which are aimed at or involve the dissemination of information with respect to renewable energy resources or energy conservation, and

Annual report to Congress.

(2) report annually to the Congress on the status of such activities, including a description of how the information dissemination activities and services of the Department of Energy in the fields of renewable energy resources and energy conservation are being coordinated with similar or related activities and services of other Federal agencies.

ESTABLISHMENT OF LIFE-CYCLE ENERGY COSTS FOR FEDERAL BUILDINGS

42 USC 8255.

SEC. 405. Section 545(a)(1) of the National Energy Conservation Policy Act is amended by inserting before the period at the end thereof the following: ", using the sum of all capital and operating expenses associated with the energy system of the building involved over the expected life of such system or during a period of 25 years, whichever is shorter, and using marginal fuel costs as determined by the Secretary and a discount rate of 7 per centum per year"

ENERGY SELF-SUFFICIENCY INITIATIVES

Program establishment. 42 USC 7374.

SEC. 406. (a) There is hereby established under the direction of the Secretary a 3-year pilot energy self-sufficiency program to demon-

strate energy self-sufficiency through the use of renewable energy resources in one or more States in the United States.

(b) As a part of the pilot program, the Secretary shall establish such subprograms as the Secretary determines are necessary to achieve the purpose of this section, including subprograms— Subprograms.

(1) to promote the development and utilization of synergistic combinations of different renewable energy resources in specific projects aimed at reducing fossil fuel importation;

(2) to initiate and encourage energy self-sufficiency at appropriate levels of government;

(3) to stimulate private industry participation in the realization of the objective stated in subsection (a); and

(4) to stimulate the utilization of abandoned or underutilized industrial facilities for the generation of energy from any locally available renewable resource, such as municipal solid waste, agricultural waste, or forest products waste.

(c) In carrying out the provisions of this section, the Secretary is authorized to assign to an existing office in the Department of Energy the responsibility of undertaking and carrying out the subprograms established under subsection (b). In addition, the Secretary shall prepare a detailed plan within one hundred eighty days of the enactment of this Act, setting forth (1) the 3-year pilot program itself, and (2) any additional Federal actions needed to encourage and promote the adoption of programs for energy self-sufficiency.

(d) The Secretary shall submit to the Congress, within one year after the date of the enactment of this Act, the plan prepared under the second sentence of subsection (c) along with a report suggesting the legislative initiatives needed to fully implement such plan. Plan, submittal to Congress.

PHOTOVOLTAIC AMENDMENTS

SEC. 407. The Federal Photovoltaic Utilization Act (42 U.S.C. 8271 et seq.) is amended—

(1) by adding at the end of section 562(1) the following new sentence: "Such term also applies to facilities related to programs administered by Federal agencies."; 42 USC 8271.

(2)(A) by inserting before the period at the end of the first sentence of section 565 the following: ", and for the acquisition of such systems and associated capability by Federal agencies for their own use in cases where the authority to make such acquisition has been delegated to the agency involved by the Secretary"; 42 USC 8274.

(B) by inserting "(or other Federal agency acting under delegation from the Secretary)" after "Secretary" in the third sentence of section 565;

(C) by inserting "(or other Federal agency acting under delegation from the Secretary)" after "Secretary" in the second sentence of section 567(a); 42 USC 8276.

(D) by inserting "and other Federal agencies acting under delegation from the Secretary" after "Secretary" in the third sentence of section 567(a);

(3) by striking out "rules and regulations" in section 566(2) and inserting in lieu thereof "requirements"; and 42 USC 8275.

42 USC 8275.

(4) by adding at the end of section 566 (after and below paragraph (3)) the following new sentence:

"Notwithstanding any other provision of law, the Secretary shall not be subject to the requirements of section 553 of title 5, United States Code, in the performance of his functions under this part.".

SMALL-SCALE HYDROPOWER INITIATIVES

SEC. 408. (a) Section 408(1) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2708(1)) is amended by striking out "15,000 kilowatts" and inserting in lieu thereof "30,000 kilowatts".

(b) Section 405 of such Act (16 U.S.C. 2705) is amended by adding at the end thereof the following new subsection:

"(d) EXEMPTIONS FROM LICENSING REQUIREMENTS IN CERTAIN CASES.—The Commission may in its discretion (by rule or order) grant an exemption in whole or in part from the requirements (including the licensing requirements) of part I of the Federal Power Act to small hydroelectric power projects having a proposed installed capacity of 5,000 kilowatts or less, on a case-by-case basis or on the basis of classes or categories of projects, subject to the same limitations (to ensure protection for fish and wildlife as well as other environmental concerns) as those which are set forth in subsections (c) and (d) of section 30 of the Federal Power Act with respect to determinations made and exemptions granted under subsection (a) of such section 30; and subsections (c) and (d) of such section 30 shall apply with respect to actions taken and exemptions granted under this subsection. Except as specifically provided in this subsection, the granting of an exemption to a project under this subsection shall in no case have the effect of waiving or limiting the application (to such project) of the second sentence of subsection (b) of this section.".

16 USC 791a.

16 USC 791.

16 USC 2708.

(c) Section 408 of such Act (as amended by subsection (a) of this section) is further amended—

(1) by inserting "(a)" before "For purposes of this title"; and

(2) by adding at the end thereof the following new subsection:

"(b) The requirement in subsection (a)(1) that a project be located at the site of an existing dam in order to qualify as a small hydroelectric power project, and the other provisions of this title which require that a project be at or in connection with an existing dam (or utilize the potential of such dam) in order to be assisted under or included within such provisions, shall not be construed to exclude—

"(1) from the definition contained in such subsection (a)(1), or

"(2) from any other provision of this title,

any project which utilizes or proposes to utilize natural water features for the generation of electricity, without the need for any dam or impoundment, in a manner which (as determined by the Commission) will achieve the purposes of this title and will do so without any adverse effect upon such natural water features.".

Rules and regulations, establishment.
16 USC 2701 note.

(d) The Secretary shall take such action as may be necessary to assure the establishment, as soon as possible after the date of the enactment of this Act (and in any event within six months after such date in the case of the amendments made by subsections (a) and (c) of this section and in the case of the loan program under section 403 of the Public Utility Regulatory Policies Act of 1978), of such rules and regulations as may be necessary to fully implement his responsibilities under title IV of the Public Utility Regulatory Policies Act of 1978 and the amendments thereto made by this section.

16 USC 2703.

16 USC 2701.

(e) Not later than three months after the date of the enactment of this Act, the Secretary shall complete a study of the existing Federal programs and policies relating to the development and commercialization of small-scale hydropower, including (1) a survey and description of such Federal programs and policies, (2) an assessment of the efficacy of such Federal programs and related policies, and (3) an identification of any need for consolidation, reorganization, or change in such programs and policies in order to improve and insure their effectiveness. Study.

AUTHORIZATIONS OF APPROPRIATIONS

SEC. 409. (a) There is authorized to be appropriated for each of the fiscal years 1981 and 1982 not to exceed $10,000,000 for loans under section 402 of the Public Utility Regulatory Policies Act of 1978, in addition to any amounts authorized for such loans by that Act; and the amounts appropriated pursuant to this subsection shall remain available until expended. 42 USC 7375. 16 USC 2702.

(b) There is authorized to be appropriated for each of the fiscal years 1981 and 1982 not to exceed $100,000,000 for loans under section 403 of the Public Utility Regulatory Policies Act of 1978; and the amounts appropriated pursuant to this subsection shall remain available until expended. 16 USC 2703.

(c) There is authorized to be appropriated for the fiscal year 1981 not to exceed $10,000,000 to carry out section 406 of this Act (relating to energy self-sufficiency initiatives). 16 USC 2706.

TITLE V—SOLAR ENERGY AND ENERGY CONSERVATION

Solar Energy and Energy Conservation Act of 1980.

SHORT TITLE

SEC. 501. This title may be cited as the "Solar Energy and Energy Conservation Act of 1980". 12 USC 3601 note.

SUBTITLE A—SOLAR ENERGY AND ENERGY CONSERVATION BANK

Solar Energy and Energy Conservation Bank Act.

SHORT TITLE

SEC. 502. This subtitle may be cited as the "Solar Energy and Energy Conservation Bank Act". 12 USC 3601 note.

PURPOSE

SEC. 503. It is the purpose of this subtitle to encourage energy conservation and the use of solar energy, and thereby reduce the Nation's dependence on foreign sources of energy supplies, by establishing a Solar Energy and Energy Conservation Bank (hereafter referred to as the "Bank"). 12 USC 3601.

DEFINITIONS

SEC. 504. For purposes of this subtitle— 12 USC 3602.

(1) the term "Board" means the Board of Directors of the Bank, which is established pursuant to section 506(a);

(2) the term "residential building" means any building used as a residence which contains not more than 4 dwelling units and has a system for heating or cooling, or both;

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(3) the term "multifamily residential building" means any building used as a residence which contains 5 or more dwelling units and has a system for heating or cooling, or both;

(4) the term "commercial building" means any building other than a residential, or multifamily residential, building which is used primarily to carry on a business (including any nonprofit business) and is not used primarily for the manufacture or production of raw materials, products, or agricultural commodities;

(5) the term "agricultural building" means any building used exclusively in connection with the production, harvesting, storage, or drying of agricultural commodities;

(6) the term "residential energy conserving improvements" means, with respect to a residential, or multifamily residential, building—

(A) caulking and weatherstripping;

(B) furnace efficiency modifications including—

(i) replacement burners, furnaces, boilers, or any combination thereof which, as determined by the Board, substantially increases the energy efficiency of the heating system;

(ii) devices for modifying flue openings which will increase the energy efficiency of the heating system; and

(iii) electrical or mechanical furnace ignition systems which replace standing gas pilot lights;

(C) clock thermostats;

(D) ceiling, attic, wall, floor, and duct insulation;

(E) water heater insulation;

(F) storm windows and doors, multiglazed windows and doors, heat-absorbing or heat-reflecting window and door materials;

(G) devices associated with load management techniques;

(H) such other improvements (not including solar energy systems) as the Board by rule identifies for purposes of this subtitle; and

(I) planning and technical services, any residential energy audit, and any conversion from master utility meters to individual utility meters, which are directly related to and undertaken with the installation of any of the items specified in subparagraphs (B) through (H);

(7) the term "commercial energy conserving improvements" means the installation or the modification of an installation which is designed primarily to reduce the consumption of petroleum, natural gas, or electrical power in a commercial or agricultural building, including—

(A) caulking and weatherstripping;

(B) the insulation of the building structure and any systems within the building;

(C) storm windows and doors, multiglazed windows and doors, heat-absorbing or heat-reflecting window and door systems, glazing, reductions in glass area, and other window and door system modifications;

(D) automatic energy control systems;

(E) equipment, associated with automatic energy control systems, which is required to operate variable steam, hydraulic, and ventilating systems;

(F) furnace, or utility plant and distribution system, modifications including—

(i) replacement burners, furnaces, boilers, or any combination thereof, which (as determined by the Board) substantially increases the energy efficiency of the heating system;

(ii) devices for modifying flue openings which will increase the energy efficiency of the heating system; and

(iii) electrical or mechanical furnace ignition systems which replace standing gas pilot lights;

(G) replacement or modification of a lighting system which increases the energy efficiency of the lighting system without increasing the overall illumination of the building (unless the increase in illumination is necessary to conform to any applicable State or local law or the increase is considered appropriate by the Board);

(H) energy recovery systems;

(I) cogeneration systems which produce electricity, as well as steam or other forms of thermal or mechanical energy, and which meet such fuel efficiency requirements as the Board may by rule prescribe;

(J) such other improvements (not including solar energy systems) as the Board identifies, by rule, for purposes of this subtitle; and

(K) planning and technical services, and any commercial energy audit, which are directly related to and undertaken with the installation, or the modification of an installation, which includes any of the items specified in subparagraphs (B) through (J).

(8) the term "solar energy system" means, with respect to a building, any addition, alteration, or improvement which is designed to utilize wind energy, energy produced by a wood-burning appliance, or solar energy, either of the active type based on mechanically forced energy transfer or of the passive type based on convective, conductive, or radiant energy transfer (or some combination of these types), to reduce the energy requirements of the building, and which is in conformity with such criteria and standards as shall be prescribed by the Board in consultation with the Secretary of Housing and Urban Development, the Secretary of Energy, and the National Institute of Building Sciences, except that such term shall include solar process heat devices, solar electric devices, and any earth sheltered building where such sheltering substantially reduces the energy requirements of such building from nonrenewable energy sources and shall include only those fireplaces which are integral parts of a system which is designed to utilize passive type solar energy;

(9) the term "financial institution" means any lender (including any nonprofit entity and any State or local governmental entity) designated by the Board based on the qualifications established for the insurance of financial institutions under section 2 of title I of the National Housing Act, or any utility providing financing for the purchase and installation of residential energy conservation measures in accordance with the requirements of title II of the National Energy Conservation Policy Act; 12 USC 1703. 42 USC 8211.

(10) the term "residential energy audit" means—

(A) an inspection or energy audit of a residential, or multifamily residential, building, or a dwelling unit in such building, performed for purposes of title II or VII of the National Energy Conservation Policy Act; or

42 USC 8211, *post*, p. 752.
Onsite inspection of residential or multifamily building.

(B) an onsite inspection of a residential, or multifamily residential, building, or a dwelling unit in such building, which includes a determination of and provides information on—

(i) the type, quantity, and rate of energy consumption of such building or dwelling unit;

(ii) energy conserving maintenance and operating procedures which can be employed to significantly reduce the energy consumption of such building or dwelling unit;

(iii) in the case of a residential building, a multifamily residential building which does not contain a central heating or cooling system, or a dwelling unit in such building, the cost of purchasing and installing appropriate residential energy conserving improvements, a solar energy system, or both, and the savings in energy costs which are likely to result from the installation of such improvements or system; and

(iv) in the case of a multifamily residential building which contains a central heating or cooling system, or a dwelling unit in such building, the need if any, for the purchase and installation of appropriate residential energy conserving improvements, a solar energy system, or both; and

(11) the term "commercial energy audit" means—

(A) an energy audit performed for purposes of title VII of the National Energy Conservation Policy Act; or

(B) an onsite inspection of a commercial or agricultural building which includes a determination of, and provides information on—

(i) the type, quantity, and rate of energy consumption of such building;

(ii) appropriate energy conserving maintenance and operating procedures which can be employed to significantly reduce the energy consumption of such building; and

(iii) the need if any, for the purchase and installation of commercial energy conserving improvements, a solar energy system, or both, in such building.

Part 1—Establishment and Operation of the Bank

ESTABLISHMENT OF THE BANK

Solar Energy and Energy Conservation Bank.
12 USC 3603.
12 USC 1723a.

SEC. 505. (a) There is hereby created the Solar Energy and Energy Conservation Bank which shall be in the Department of Housing and Urban Development and shall have the same powers as those powers given to the Government National Mortgage Association by section 309(a) of the National Housing Act. The Bank shall not exist after September 30, 1987.

Audit.

(b) The General Accounting Office shall audit, not later than the date occurring 2 years after the date of the enactment of this subtitle, and not later than each date occurring 3 years after such audit, the

financial transactions of the Bank, and for this purpose shall have access to all of the books, records, and accounts of the Bank.

(c) The Bank may impose fees or charges for its services which shall be deposited into the miscellaneous receipts of the Treasury.

BOARD OF DIRECTORS

SEC. 506. (a) The Bank shall be governed by a Board of Directors. The Board shall consist of the Secretary of Housing and Urban Development, the Secretary of Energy, the Secretary of the Treasury, the Secretary of Agriculture, and the Secretary of Commerce. 12 USC 3604.

(b) Three members of the Board shall constitute a quorum.

(c) The Chairperson of the Board shall be the Secretary of Housing and Urban Development.

(d) The President of the Bank shall be the Secretary of the Board.

(e) The Board shall carry out the functions of the Bank as set forth in this subtitle and shall adopt such regulations, subject to the provisions of section 7(o) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(o)), as the Board determines are necessary to carry out such functions.

(f) The Board shall provide to the Secretary of the Treasury such information as the Secretary of the Treasury determines is necessary to insure that no individual is allowed for the same expenditure both—

(1) a credit against taxes under section 38 or section 44C of the Internal Revenue Code of 1954; and 26 USC 38, 44C.

(2) financial assistance under this subtitle.

OFFICERS AND PERSONNEL

SEC. 507. (a) There is established in the Department of Housing and Urban Development the position of President of the Bank, which shall be filled by an individual appointed by the President of the United States with the advice and consent of the Senate and which shall be compensated at the rate now or thereafter prescribed for executive level V by section 5316 of title 5, United States Code. President of the Bank. 12 USC 3605. 44 FR 58678.

(b) The President of the Bank shall appoint an Executive Vice President for Energy Conservation, and an Executive Vice President for Solar Energy, who shall be paid at a rate set by the Board and shall have the functions, powers, and duties prescribed by the President of the Bank.

(c) Subject to the direction of the Board, the President of the Bank shall manage and supervise the affairs of the Bank with the assistance of the Executive Vice Presidents and shall perform any functions of the Bank which the Board may prescribe. Functions.

(d) The Secretary of Housing and Urban Development may permit the Bank to utilize the services or personnel of the Department of Housing and Urban Development, including the personnel of the Government National Mortgage Association, for the purpose of carrying out this subtitle.

ADVISORY COMMITTEES

SEC. 508. (a) As part of the Bank, there is established an Energy Conservation Advisory Committee composed of 5 members which shall provide advice to the Board for the purpose of assisting the Bank in carrying out the activities of the Bank which relate to residential and commercial energy conserving improvements. The Energy Conservation Advisory Committee. Establishment. 12 USC 3606.

members of the advisory committee shall be appointed by the Board, from among individuals who are not officers or employees of any governmental entity, as follows:

(1) One individual who is able to represent the views of consumers as a result of the individual's education, training, and experience.

(2) One individual who is able to represent the views of financial institutions as a result of the individual's education, training, and experience.

(3) One individual who is able to represent the views of builders as a result of the individual's education, training, and experience.

(4) One individual who is able to represent the views of architectural or engineering interests as a result of the individual's education, training, and experience.

(5) One individual who is able to represent the views of producers or installers of residential and commercial energy conserving improvements as a result of the individual's education, training, and experience.

Solar Energy Advisory Committee.

(b) As part of the Bank, there is established a Solar Energy Advisory Committee composed of 5 members which shall provide advice to the Board for the purpose of assisting the Bank in carrying out the activities of the Bank which relate to solar energy systems.

Membership.

The members of the advisory committee shall be appointed by the Board, from among individuals who are not officers or employees of any governmental entity, as follows:

(1) One individual who is able to represent the views of consumers as a result of the individual's education, training, and experience.

(2) One individual who is able to represent the views of financial institutions as a result of the individual's education, training, and experience.

(3) One individual who is able to represent the views of builders as a result of the individual's education, training, and experience.

(4) One individual who is able to represent the views of architectural or engineering interests as a result of the individual's education, training, and experience.

(5) One individual who is able to represent the views of the solar energy industry as a result of the individual's education, training, and experience.

Term of office.

(c)(1) Except as provided in paragraphs (2) and (3), members of the Energy Conservation Advisory Committee and the Solar Energy Advisory Committee shall be appointed for terms of 2 years,

(2) Of the members first appointed, those appointed pursuant to paragraphs (1) and (2) of subsections (a) and (b) shall be appointed for a term of 3 years and those appointed pursuant to paragraphs (3), (4), and (5) of subsections (a) and (b) shall be appointed for a term of 2 years.

(3) Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of such term. A member may serve after the expiration of the member's term until the member's successor has taken office.

(d) If any member of the Energy Conservation Advisory Committee or the Solar Energy Advisory Committee becomes an officer or employee of any governmental entity, the member may continue as a

member of such advisory committee for not longer than the 90-day period beginning on the date the member becomes such an officer or employee.

(e) Subject to the availability of appropriations, members of the Energy Conservation Advisory Committee and the Solar Energy Advisory Committee shall each be paid at a rate equal to the daily equivalent of the maximum annual rate of basic pay in effect for grade GS-15 of the General Schedule (5 U.S.C. 5332(a)) for each day (including travel time) during which they are engaged in the actual performance of the duties vested in such advisory committee. 44 FR 58672.

(f) Three members of the Energy Conservation Advisory Committee shall constitute a quorum, and 3 members of the Solar Energy Advisory Committee shall constitute a quorum, but a lesser number of members of either advisory committee may hold hearings. Quorum.

(g) The Chairperson of the Energy Conservation Advisory Committee and the Chairperson of the Solar Energy Advisory Committee shall each be elected by the members of such advisory committee.

(h) The Energy Conservation Advisory Committee and the Solar Energy Advisory Committee shall not terminate until the Bank ceases to exist. Termination.

PROVISION OF FINANCIAL ASSISTANCE

SEC. 509. (a) Subject to the conditions contained in sections 513, 514, and 515 and the limitations contained in sections 516 and 517, the Bank may make payments to financial institutions to provide financial assistance in the form of— 12 USC 3607.

(1) reductions of the principal obligations of loans, or portions of loans, made—

(A)(i) to owners of, and tenants in, existing residential and multifamily residential buildings for the purchase and installation of residential energy conserving improvements in such buildings; and (ii) to owners who occupy, and tenants in, existing commercial and agricultural buildings for the purchase and installation of commercial energy conserving improvements in such buildings; and

(B)(i) to owners of existing residential, multifamily residential, commercial, and agricultural buildings for the purchase and installation of solar energy systems in such buildings; (ii) to builders of newly constructed or substantially rehabilitated residential buildings for the purchase and installation of solar energy systems in such buildings; and (iii) to purchasers of newly constructed or substantially rehabilitated residential, multifamily residential, commercial, and agricultural buildings which have such systems;

(2) prepayments of the interest which would otherwise be due with respect to such loans, or portions of loans; and

(3) grants to owners of, and tenants in, existing residential buildings and tenants in existing multifamily residential buildings for the purchase and installation of residential energy conserving improvements in such buildings.

(b) Financial assistance may be provided under subsection (a) only if— Conditions.

(1) the expenditures for residential and commercial energy conserving improvements and solar energy systems, made using financial assistance provided under this subtitle, are made after the date of the enactment of this subtitle; or

(2) the financial assistance is provided in the form described in paragraph (1) or (2) of subsection (a) and—

(A) the financial assistance is for the purchase and installation of residential or commercial energy conserving improvements;

(B) the purchase and installation of residential or commercial energy conserving improvements was financed by a loan made after January 1, 1980, and before the date of the enactment of this subtitle;

(C) the financial assistance is provided not later than 90 days after the date of the promulgation by the Board of regulations with respect to such financial assistance;

(D) the determination of the amount of the financial assistance pursuant to section 511 is made on the basis of the amount of the principal obligation of the loan outstanding on the date of the provision of such financial assistance; and

(E) the owner or tenant receiving such loan has not applied for or received any credit against taxes allowed by section 38 or section 44C of the Internal Revenue Code of 1954 for the expenditures made with the proceeds of such loan, or portion of a loan.

26 USC 38, 44C.

(c) The amount of any financial assistance provided under this subtitle shall not be included in the gross income of any person for purposes of the Internal Revenue Code of 1954, and such person shall not receive any increase in basis under the Internal Revenue Code of 1954 which is attributable to the amount of any financial assistance provided under this subtitle.

26 USC 1 *et seq.*

ESTABLISHING LEVELS OF FINANCIAL ASSISTANCE

12 USC 3608.

SEC. 510. (a) The Board shall establish, from time to time, the various levels of financial assistance which will be made under section 509, subject to the maximum amounts allowed under sections 511 and 512.

(b) In establishing such levels the Board shall consider at least—

(1) the prevailing market rates of interest for home mortgages, home improvement loans, commercial and agricultural building loans, and Federal Government and corporate bonds;

(2) the availability of other Federal incentives and subsidies for energy conservation expenditures and solar energy system expenditures, including Federal tax credits;

(3) the costs and efficiencies of nonrenewable energy resources and systems, residential and commercial energy conserving improvements, and solar energy systems; and

(4) the levels of financial assistance needed to induce owners and tenants from various income groups to purchase and install residential and commercial energy conserving improvements and solar energy systems in residential, multifamily residential, commercial, and agricultural buildings and to induce the purchase of newly constructed or substantially rehabilitated buildings which include solar energy systems.

MAXIMUM AMOUNTS OF FINANCIAL ASSISTANCE FOR RESIDENTIAL AND COMMERCIAL ENERGY CONSERVING IMPROVEMENTS

12 USC 3609.

SEC. 511. (a) The maximum amount of financial assistance which may be provided to an owner or tenant under this subtitle for the

purchase and installation of residential energy conserving improvements in a residential building may not exceed—

(1) in the case of an owner or tenant whose income does not exceed an amount equal to 80 percent of the median area income—

(A) an amount equal to 50 percent of the cost of the residential energy conserving improvements; or

(B) $1,250 in the case of a residential building with one dwelling unit, $2,000 in the case of a residential building with 2 dwelling units, $2,750 in the case of a residential building with 3 dwelling units, or $3,500 in the case of a residential building with 4 dwelling units,

whichever is less;

(2) in the case of an owner or tenant whose income exceeds an amount equal to 80 percent, but does not exceed an amount equal to 100 percent, of the median area income—

(A) an amount equal to 35 percent of the cost of the residential energy conserving improvements; or

(B) $875 in the case of a residential building with one dwelling unit, $1,400 in the case of a residential building with 2 dwelling units, $1,925 in the case of a residential building with 3 dwelling units, or $2,450 in the case of a residential building with 4 dwelling units,

whichever is less;

(3) in the case of an owner or tenant whose income exceeds an amount equal to 100 percent, but does not exceed an amount equal to 120 percent, of the median area income—

(A) an amount equal to 30 percent of the cost of the residential energy conserving improvements; or

(B) $750 in the case of a residential building with one dwelling unit, $1,200 in the case of a residential building with 2 dwelling units, $1,650 in the case of a residential building with 3 dwelling units, or $2,100 in the case of a residential building with 4 dwelling units,

whichever is less; and

(4) in the case of an owner or tenant whose income exceeds an amount equal to 120 percent, but does not exceed an amount equal to 150 percent, of the median area income—

(A) an amount equal to 20 percent of the cost of the residential energy conserving improvements; or

(B) $500 in the case of a residential building with one dwelling unit, $800 in the case of a residential building with 2 dwelling units, $1,100 in the case of a residential building with 3 dwelling units, or $1,440 in the case of a residential building with 4 dwelling units,

whichever is less.

(b) The maximum amount of financial assistance which may be provided to an owner or tenant under this subtitle for the purchase and installation of residential energy conserving improvements in a multifamily residential building may not exceed—

(1) an amount equal to 20 percent of the cost of such improvements; or

(2) the sum of $400 times the number of dwelling units in such building in the case of an owner, or $400 in the case of a tenant, whichever is less.

(c) The maximum amount of financial assistance which may be provided under this subtitle to an owner of, or tenant in, a commer-

cial or agricultural building for the purchase and installation of commercial energy conserving improvements may not exceed an amount equal to 20 percent of the cost of such improvements or $5,000, whichever is less.

MAXIMUM AMOUNTS OF FINANCIAL ASSISTANCE FOR SOLAR ENERGY SYSTEMS

12 USC 3610.

SEC. 512. (a) Subject to subsection (d)(2), the maximum amount of financial assistance which may be provided under this subtitle to an owner of an existing residential building for the purchase and installation of a solar energy system in such building, or to a purchaser or builder of a newly constructed or substantially rehabilitated residential building which has such a system, may not exceed—

(1) in the case of an owner or purchaser whose income does not exceed an amount equal to 80 percent of the median area income—

(A) an amount equal to 60 percent of the cost of the solar energy system; or

(B) $5,000 in the case of a residential building with one dwelling unit, $7,500 in the case of a residential building with 2 dwelling units, or $10,000 in the case of a residential building with 3 or 4 dwelling units,

whichever is less;

(2) in the case of an owner or purchaser whose income exceeds an amount equal to 80 percent, but does not exceed an amount equal to 160 percent of the median area income—

(A) an amount equal to 50 percent of the cost of the solar energy system; or

(B) $5,000 in the case of a residential building with one dwelling unit, $7,500 in the case of a residential building with 2 dwelling units, or $10,000 in the case of a residential building with 3 or 4 dwelling units,

whichever is less;

(3) in the case of an owner or purchaser whose income exceeds an amount equal to 160 percent of the median area income—

(A) an amount equal to 40 percent of the cost of the solar energy system; or

(B) $5,000 in the case of a residential building with one dwelling unit, $7,500 in the case of a residential building with 2 dwelling units, or $10,000 in the case of a residential building with 3 or 4 dwelling units,

whichever is less; and

(4) in the case of a builder of a residential building—

(A) an amount equal to 40 percent of the cost of the solar energy system; or

(B) $5,000 in the case of a residential building with one dwelling unit, $7,500 in the case of a residential building with 2 dwelling units, or $10,000 in the case of a residential building with 3 or 4 dwelling units,

whichever is less.

(b) Subject to subsection (d)(2), the maximum amount of financial assistance which may be provided under this subtitle to an owner of an existing multifamily residential building for the purchase and installation of a solar energy system in such building, or to a purchaser of a newly constructed or substantially rehabilitated multifamily residential building which has such a system, either—

(1) may not exceed—

(A) an amount equal to 40 percent of the cost of the solar energy system; or

(B) the sum of $2,500 times the number of dwelling units in such building,

whichever is less; or

(2) if the owner or purchaser certifies pursuant to procedures established by the Board that a majority of the dwelling units in such building are occupied by tenants whose income does not exceed an amount equal to 80 percent of the median area income, may not exceed—

(A) an amount equal to 60 percent of the cost of the solar energy system; or

(B) the sum of $2,500 times the number of dwelling units in such building,

whichever is less.

(c) Subject to subsection (d)(2), the maximum amount of financial assistance which may be provided under this subtitle to an owner of an existing commercial or agricultural building for the purchase and installation of a solar energy system in such building, or to a purchaser of a newly constructed or substantially rehabilitated commercial or agricultural building which has such a system, may not exceed an amount equal to 40 percent of the cost of the solar energy system or $100,000, whichever is less.

(d) In the case of financial assistance provided under this subtitle for the purchase and installation of a solar energy system in a building or for the purchase of a building which has such a system—

Active type solar energy system.

(1) with respect to any active type solar energy system (subject to the limitations on the maximum amounts of such assistance contained in subsections (a), (b), and (c)) the amount of such assistance provided after January 1, 1983, shall vary by the estimated amount of energy to be saved by the use of such system, unless the Board determines that such variance is not practicable; and

Passive type solar energy system.

(2) with respect to any passive type solar energy system, (despite the limitations on the maximum amounts of such assistance contained in subsections (a), (b), and (c)) the amount of such assistance shall vary (to the extent practicable) by the estimated amount of energy to be saved by the use of such system, except that the amount of such assistance may not exceed $5,000 in the case of a residential building with one dwelling unit, $7,500 in the case of a residential building with 2 dwelling units, $10,000 in the case of a residential building with 3 or 4 dwelling units, $100,000 in the case of a commercial or agricultural building, or the sum of $2,500 times the number of dwelling units in a multifamily residential building in the case of such a building.

GENERAL CONDITIONS ON FINANCIAL ASSISTANCE FOR LOANS

SEC. 513. Financial assistance may be provided by a financial institution under this subtitle with respect to a loan only if— 12 USC 3611.

(1) the loan bears a rate of interest acceptable to the Board;

(2) the security for the loan meets the requirements of the Board;

Interest prepayment, waiver.

(3) in the case of prepayment of interest by the Bank with respect to a loan, the financial institution agrees to repay to the Bank that portion of such prepayment which is in excess of the

actual interest due on the loan at the time the borrower fails to meet his or her obligation under the loan, except that the Bank may waive the repayment where such excess is minimal; and

(4) the borrower agrees to certify to the financial institution that the borrower has used the proceeds of the loan to purchase and install a solar energy system or residential or commercial energy conserving improvements, or to purchase a building with such a system, immediately after such purchase and installation or purchase of a building, which certification shall be made available to the Bank by the financial institution upon the request of the Board.

CONDITIONS ON FINANCIAL ASSISTANCE FOR RESIDENTIAL AND COMMERCIAL ENERGY CONSERVING IMPROVEMENTS

12 USC 3612.

SEC. 514. (a) In addition to the conditions contained in section 513, financial assistance may be provided under this subtitle to an owner or tenant with respect to a loan made for the purchase and installation of residential or commercial energy conserving improvements in a building only if—

Term of repayment.

(1) the term of repayment of the loan is not less than 5 years and does not exceed 15 years, except that the financial institution may establish a shorter term of repayment at the request of the borrower and that there shall be no penalty imposed on the borrower if the loan is repaid before the end of the term of repayment;

Warranty.

(2)(A) the manufacturer of such residential or commercial energy conserving improvements shall, in connection with such improvements, warrant in writing that the owner or tenant receiving the proceeds of such loan, the installation contractor who installs the improvements, and the supplier of the improvements shall (for those improvements found within one year from the date of installation to be defective due to materials, manufacture, or design), at a minimum, be entitled to obtain, within a reasonable period of time and at no charge, appropriate replacement parts or materials, (B) the supplier of such residential or commercial energy conserving improvements shall, in connection with such improvements, provide, at a minimum, to the owner or tenant receiving the proceeds of such loan a warranty equivalent to that required under clause (A), and (C) the contractor for the installation of such residential or commercial energy conserving improvements shall, in connection with such improvements, warrant in writing that, at a minimum, any defect in materials, manufacture, design, or installation found within one year from the date of installation shall be remedied without charge and within a reasonable period of time;

(3) the residential or commercial energy conserving improvements are installed in a building which was completed before January 1, 1980;

(4) in the case of a loan made to a tenant, the owner of such building agrees in writing to the installation of such residential or commercial energy conserving improvements before the making of the loan;

(5) in the case of a loan made for the purchase and installation of residential energy conserving improvements, the financial institution informs the borrower before the loan is made of the availability of residential energy audits;

(6) in the case of a loan made for the purchase and installation of commercial energy conserving improvements in a commercial or agricultural building, the borrower submits to the financial institution before the loan is made a copy of a commercial energy audit of such building; Commercial energy building audit.

(7) in the case of a loan made to an owner of, or tenant in, a residential building, or a tenant in a multifamily residential building, the income of such owner or tenant does not exceed 150 percent of the median area income; and

(8) in the case of a loan made to an owner who occupies or a tenant of a commercial or agricultural building, the gross annual sales of such owner or tenant are not more than $1,000,000 during the fiscal year of such owner or tenant preceding the fiscal year in which such loan is made.

(b) Financial assistance may be provided by a financial institution under this subtitle in the form of a grant to an owner or tenant only if— Owner or tenant grants.

(1) the owner or tenant has income which does not exceed 80 percent of the median area income;

(2) the owner or tenant certifies to the financial institution, as prescribed by the Board, that financial resources are available to the owner or tenant which when added to the financial assistance provided under this subtitle will be sufficient to pay the cost of the residential energy conserving improvements purchased and installed with such grant;

(3) the total cost of the residential energy conserving improvements to be purchased and installed with such grant exceeds $250;

(4) the supplier or contractor who sells or installs the residential energy conserving improvements purchased and installed with such grant is included on a list provided under section 213(a) of the National Energy Conservation Policy Act; *Post*, p. 742.

(5)(A) the manufacturer of the residential energy conserving improvements to be purchased and installed with such grant shall, in connection with such improvements, warrant in writing that the owner or tenant receiving such grant, the installation contractor who installs the improvements, and the supplier of the improvements shall (for those improvements found within one year from the date of installation to be defective due to materials, manufacture, or design), at a minimum, be entitled to obtain, within a reasonable period of time and at no charge, appropriate replacement parts or materials, (B) the supplier of such residential energy conserving improvements shall, in connection with such improvements, provide, at a minimum, to the owner or tenant receiving such grant a warranty equivalent to that required under clause (A), and (C) the contractor for the installation of such residential energy conserving improvements shall, in connection with such improvements, warrant in writing that, at a minimum, any defect in materials, manufacture, design, or installation found within one year from the date of installation shall be remedied without charge and within a reasonable period of time; Warranty.

(6) the financial institution informs the owner or tenant of the availability of residential energy audits;

(7) in the case of a grant made to a tenant, the owner of the building in which the residential energy conserving improve-

ments are to be installed agrees in writing to the installation before the making of the grant;

(8) the owner or tenant agrees to certify to the financial institution, immediately after such installation, that such owner or tenant has purchased and installed with the grant residential energy conserving improvements, which certification shall be available to the Bank upon request; and

(9) any residential energy conserving improvements purchased and installed with such grant are purchased and installed in a residential, or multifamily residential, building which was completed before January 1, 1980.

CONDITIONS ON FINANCIAL ASSISTANCE FOR SOLAR ENERGY SYSTEMS

12 USC 3613.

SEC. 515. (a) In addition to the conditions contained in section 513, financial assistance may be provided under this subtitle to an owner or builder with respect to a loan made for the purchase and installation of a solar energy system, or to a purchaser for the purchase of a newly constructed or substantially rehabilitated building with such a system, only if—

Term of loan repayment.

(1) the term of repayment of the loan—

(A) in the case of a residential building, is not less than 5 years in the case of an owner or purchaser, and does not exceed 30 years; or

(B) in the case of a multifamily residential building, commercial building, or agricultural building, is not less than 5 years and does not exceed 40 years,

except that the financial institution may establish a shorter term of repayment at the request of the borrower and that there shall be no penalty imposed on the borrower if the loan is repaid before the end of the term of repayment;

Warranty.

(2)(A) the manufacturer of such solar energy system, shall, in connection with such system, warrant in writing that the owner, builder, or purchaser receiving the proceeds of the loan, the installation contractor who installs the system, and the supplier of the system shall (for those solar energy systems found within 3 years from the date of installation to be defective due to materials, manufacture, or design), at a minimum, be entitled to obtain, within a reasonable period of time and at no charge, appropriate replacement parts or materials, (B) the supplier of such solar energy system shall, in connection with such system, provide, at a minimum, to such owner, builder, or purchaser a warranty equivalent to that required under clause (A), (C) the contractor for the installation of such solar energy system shall, in connection with such system, warrant in writing that, at a minimum, any defect in materials, manufacture, design, or installation found within one year from the date of installation shall be remedied without charge and within a reasonable period of time, and (D) the contractor for the installation of such solar energy system shall provide an onsite inspection of the system and its components for the purpose of discovering and remedying any defects during the 15 day period before the expiration of the warranty under clause (C), if the Board decides to require such an inspection;

(3) in the case of a loan made to a purchaser or builder of a newly constructed or substantially rehabilitated residential or multifamily residential building, the purchaser or builder pro-

vides certification that the building meets or exceeds the cost-effective energy conservation standards established by the Secretary of Housing and Urban Development, which are in effect on the date of the enactment of this subtitle and as such standards may be revised after such date by the Secretary after consultation with the Board, the Secretary of Energy, the Secretary of Agriculture, the National Institute of Building Sciences, the National Bureau of Standards, and any other Federal agency which is responsible for developing such standards; and

(4) in the case of a loan made to an owner of an existing residential building after December 31, 1985, the income of such owner does not exceed an amount equal to 250 percent of the median area income.

(b)(1) In addition to the conditions contained in section 513 and subsection (a), financial assistance may be provided by a financial institution to a builder under this subtitle for the purchase and installation of a solar energy system in a residential building only if—

(A) the Board determines that—

(i) in order to encourage the construction or substantial rehabilitation of a greater number of residential buildings containing solar energy systems it is necessary to provide financial assistance under this subtitle directly to builders;

(ii) providing any financial assistance under this subtitle directly to builders is a more effective expenditure of such assistance to encourage the construction or substantial rehabilitation of residential buildings containing solar energy systems than providing such assistance only to the purchasers of such buildings; and

(iii) the Board, in consultation with the Secretary of the Treasury, is able to establish a procedure which will prevent the purchaser (who buys the building from the builder) of a residential building for which a builder received financial assistance under this subtitle from receiving additional assistance under this subtitle for the same expenditures for which the builder received assistance and from being allowed a credit against taxes under section 38 or section 44C of the Internal Revenue Code of 1954 for such expenditures; 26 USC 38, 44C.

Additional assistance, prohibition.

(B) the Board establishes a procedure which prevents the purchaser (who buys the building from the builder) of a residential building for which a builder received financial assistance under this subtitle from receiving additional assistance under this subtitle for the same expenditures for which the builder received assistance and from being allowed a credit against taxes under section 38 or section 44C of the Internal Revenue Code of 1954 for such expenditures;

Additional assistance, prohibition.

(C) the builder agrees to, and does, disclose to the purchaser (who buys the building from the builder) in writing at the time of signing the sales contract for such building—

(i) the expenditures with respect to such building for which the builder received financial assistance under this subtitle; and

(ii) that the purchaser may not be allowed a credit against taxes for such expenditures under section 38 or section 44C of the Internal Revenue Code of 1954; and

(D) in addition to any other information required by this subtitle to be provided, the builder agrees to, and does, provide to

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the Bank such information as the Board determines, in consultation with the Secretary of the Treasury, is necessary to assure that the purchaser (who buys the building from the builder) is not allowed a credit against taxes for such expenditures under section 38, or section 44C, of the Internal Revenue Code of 1954.

26 USC 38, 44C.

Subsidized energy financing.

(2) Any expenditures, made by a builder for the purchase and installation of a solar energy system in a building, for which the builder received financial assistance under this subtitle shall be considered expenditures from subsidized energy financing by the purchaser (who buys such building from the builder) for purposes of section 38 and section 44C of the Internal Revenue Code of 1954.

Payments to utility.

(c) Payments may be made to a utility for the provision of financial assistance under this subtitle for the purchase and installation of a solar energy system only if the financial assistance is used for such purchase and installation in existing buildings.

(d) In providing financial assistance with respect to loans for newly constructed and substantially rehabilitated residential buildings with solar energy systems, the Board shall establish a priority for residential buildings which contain at least a solar space heating or cooling system, except in areas or regions of the United States where it is impractical or inefficient to establish such a priority.

LIMITATIONS ON THE PROVISION OF FINANCIAL ASSISTANCE FOR RESIDENTIAL AND COMMERCIAL ENERGY CONSERVING IMPROVEMENTS

12 USC 3614.

SEC. 516. (a) An amount equal to not less than 80 percent of the funds appropriated for a fiscal year under the authorization contained in section 522(a) shall be provided during such fiscal year for financial assistance under this subtitle for the purchase and installation of residential energy conserving improvements in residential and multifamily residential buildings.

(b)(1) An amount equal to not less than 15 percent of the funds appropriated for a fiscal year under the authorization contained in section 522(a) shall be provided during such fiscal year for financial assistance for the purchase and installation of residential energy conserving improvements in residential buildings owned by individuals whose income is less than 80 percent of the median area income, or in multifamily residential buildings with a majority of the dwelling units occupied by such individuals.

(2) Funds made available during any fiscal year for the provision of financial assistance required by paragraph (1) which are not expended during such fiscal year shall be available during the following fiscal year for the provision of any financial assistance under this subtitle for residential and commercial energy conserving improvements.

(c) Any failure during any fiscal year to provide the amount of financial assistance required by subsection (a) or subsection (b) shall not delay the provision of other financial assistance under this subtitle.

LIMITATIONS ON THE PROVISION OF FINANCIAL ASSISTANCE FOR SOLAR ENERGY SYSTEMS

12 USC 3615.

SEC. 517. (a)(1) The total amount of all payments made to utilities in any fiscal year for the provision of financial assistance under this subtitle for the purchase and installation of solar energy systems shall not exceed 10 percent of the amount of funds appropriated for

such fiscal year under the authorization contained in section 522(b), except that the Board may allow the total amount of such payments to exceed 10 percent of the amount of such funds, but not to exceed 20 percent of the amount of such funds, if the Board determines that it would further the purpose of this subtitle of encouraging the use of solar energy.

(2) The total amount of any payments provided to utilities for the provision of financial assistance under this subtitle for the purchase and installation of solar energy systems shall be distributed regionally, among utilities throughout the United States, in a reasonable manner.

(b) An amount equal to not less than 70 percent of the funds appropriated for a fiscal year under the authorization contained in section 522(b) shall be provided during such fiscal year for financial assistance under this subtitle for the purchase and installation of solar energy systems in residential and multifamily residential buildings and for the purchase of residential and multifamily residential buildings which have such systems.

(c)(1) An amount equal to not less than 5 percent of the funds appropriated for a fiscal year under the authorization contained in section 522(b) shall be provided during such fiscal year for financial assistance under this subtitle for the purchase and installation of solar energy systems in residential buildings owned by individuals whose income is less than 80 percent of the median area income, or in multifamily residential buildings with a majority of the dwelling units occupied by such individuals.

(2) Funds made available during any fiscal year for the provision of financial assistance required by paragraph (1) which are not expended during such fiscal year shall be available during the following fiscal year for the provision of any financial assistance under this subtitle for solar energy systems.

(d) Any failure during any fiscal year to provide the amount of financial assistance required by subsection (b) or subsection (c) shall not delay the provision of other financial assistance under this subtitle.

PROMOTION

SEC. 518. (a) The Bank shall promote the program established by this subtitle by informing financial institutions, builders, and consumers of the benefits of this program and by actively seeking their participation in the program. The Bank shall not duplicate any promotion or assistance activities undertaken by the Department of Energy, the Department of Housing and Urban Development, or other Federal agencies to encourage greater use of residential and commercial energy conserving improvements and solar energy systems, but shall cooperate with those agencies in— 12 USC 3616.

Duplication of activities.

(1) the dissemination of information relating to residential and commercial energy conserving improvements and solar technology and their applicability to new and existing construction;

(2) the development and dissemination of reliable appraisal techniques with respect to residential and commercial energy conserving improvements and solar energy systems;

(3) the provision of technical assistance to nonprofit entities, low-income groups, and local governments in the use of financial assistance under this subtitle to undertake solar and conservation strategies; and

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(4) the provision of such other assistance and information as the Board determines is necessary to encourage the use of residential and commercial energy conserving improvements and solar energy systems.

(b) The Bank shall seek the advice and assistance of the Federal Home Loan Mortgage Corporation and the Federal National Mortgage Association in coordinating the programs of the Bank with the secondary market for loans used to finance the purchase and installation of residential and commercial energy conserving improvements and solar energy systems.

(c) Where possible the Bank shall coordinate its promotional program with promotional and assistance programs undertaken by State, regional, and local governments.

(d) The Secretary is authorized to use any available means of communication to accomplish the goals of this section by using the electronic media, print media, and the United States Postal Service.

REPORTS

Submittal to Congress and President. 12 USC 3617.

SEC. 519. (a) The Board shall submit an annual report, to the Congress and to the President of the United States which includes, among other matters, the views of the President of the Bank, the Energy Conservation Advisory Committee, and the Solar Energy Advisory Committee, with respect to—

(1) the operation of the Bank during the previous year;

(2) the problems of the energy conservation and solar energy industries, the Federal Government, and financial institutions which may be inhibiting the operation of the Bank or the acceptance by the public of the use of residential and commerical energy conserving improvements and solar energy systems;

(3) the cost effectiveness of the program in terms of expenditure, specific residential and commercial energy conserving improvements, and energy savings, using statistically valid samples of the improvements assisted under this subtitle;

(4) the relative number of persons from various income groups who have received financial assistance under this subtitle;

(5) the total energy savings achieved because of the assistance provided under this subtitle, based on an estimate of such savings using a statistically valid sample; and

(6) recommendations for improvements in the operation of the Bank.

Submittal to Congress.

(b) The Board shall submit to the Congress not later than 2 years after the date of the enactment of this subtitle a report on the limitation on the amount of financial assistance provided to utilities pursuant to section 517(a), including the recommendations of the Board on the continuation of the limitation and the level of such limitation.

RULES AND REGULATIONS

12 USC 3618.

SEC. 520. As soon as practicable, but not later than 180 days after the date of the enactment of this subtitle, the Board shall issue such final rules and regulations as the Board determines are necessary to carry out this subtitle, including rules and regulations to assure that there will be no fraud in the provision of financial assistance through grants under this subtitle, except that any final rules and regulations with respect to multifamily residential, commercial, or agricultural

buildings may be issued later than 180 days after such date but not later than 270 days after such date.

PENALTIES

SEC. 521. Any person who knowingly makes any false statement or misrepresents any material fact with respect to any financial assistance provided under this subtitle, or fails to make any disclosure or statement required by this subtitle, shall be fined not more than $10,000 or imprisoned not more than one year, or both, for each offense. 12 USC 3619.

FUNDING

SEC. 522. (a) There is authorized to be appropriated to provide financial assistance under this subtitle for the purchase and installation of residential and commercial energy conserving improvements— Appropriation authorization. 12 USC 3620.

(1) the sum of $200,000,000 for the fiscal year ending on September 30, 1981, of which not more than $10,000,000 may be used to carry out section 518;

(2) the sum of $625,000,000 for the fiscal year ending on September 30, 1982, of which not more than $7,500,000 may be used to carry out section 518;

(3) the sum of $800,000,000 for the fiscal year ending on September 30, 1983, of which not more than $7,500,000 may be used to carry out section 518; and

(4) the sum of $875,000,000 for the fiscal year ending on September 30, 1984, of which not more than $7,500,000 may be used to carry out section 518.

(b) There is authorized to be appropriated to provide financial assistance under this subtitle for the purchase and installation of solar energy systems— Appropriation authorization.

(1) the sum of $100,000,000 for the fiscal year ending on September 30, 1981, of which not more than $10,000,000 may be used to carry out section 518;

(2) the sum of $200,000,000 for the fiscal year ending on September 30, 1982, of which not more than $7,500,000 may be used to carry out section 518; and

(3) the sum of $225,000,000 for the fiscal year ending on September 30, 1983, of which not more than $7,500,000 may be used to carry out section 518.

(c) Any funds appropriated under the authorizations contained in this section shall remain available until expended.

Part 2—Secondary Financing

AUTHORITY OF SOLAR ENERGY AND ENERGY CONSERVATION BANK TO PURCHASE LOANS AND ADVANCES OF CREDIT FOR RESIDENTIAL ENERGY CONSERVING IMPROVEMENTS OR SOLAR ENERGY SYSTEMS

SEC. 531. (a) Section 315(a) of the Federal National Mortgage Association Charter Act is amended— 12 USC 1723g.

(1) by striking out "(1) Whenever" and all that follows through "direct the Association" and inserting in lieu thereof "Unless the Board of Directors of the Solar Energy and Energy Conservation Bank established in section 505 of the Solar Energy and Energy Conservation Bank Act finds it unnecessary to utilize this section *Ante*, p. 722.

in order to advance the national program of energy conservation in residential buildings, the Board shall direct the Bank"; and

(2) by striking out paragraph (2).

12 USC 1723g. (b) Section 315(b) of such Act is amended—

(1) by striking out "Secretary" and "Association" and inserting in lieu thereof "Board" and "Bank", respectively; and

(2) by striking out "which are insured under title I" and all that follows through the period at the end thereof and inserting in lieu thereof the following: ", including loans and advances made by public utilities in accordance with the requirements of title II of the National Energy Conservation Policy Act, which are made for the purpose of financing, in whole or in part, the purchase and installation of residential energy conserving improvements or solar energy systems in residential buildings.".

42 USC 8211.

12 USC 1723g. (c) Section 315(c) of such Act is amended by striking out "Association" and "Association's" each time they appear and inserting in lieu thereof "Bank" and "Bank's", respectively.

(d) Section 315(d) of such Act is amended—

(1) by inserting "or advance of credit" after "loan" each time it appears; and

(2) by striking out "Association" and inserting in lieu thereof "Bank".

(e) Section 315(e) of such Act is amended by striking out "Association" and inserting in lieu thereof "Bank".

(f) Section 315(f) of such Act is amended by striking out "Secretary" and inserting in lieu thereof "Board".

(g) Section 315(g) of such Act is amended—

(1) by striking out "and" at the end of paragraph (1);

(2) by inserting "residential" before "energy conserving" in paragraph (2);

(3) by inserting "or solar energy system" after "improvements" in paragraph (2);

(4) by inserting ", in whole or in part," after "financed" in paragraph (2);

(5) by striking out "of this section." in paragraph (2) and inserting in lieu thereof "of the Solar Energy and Energy Conservation Bank Act;" and;

Ante, p. 719.

(6) by adding the following new paragraphs after paragraph (2):

"(3) the term of repayment of such loan or advance of credit is not less than 5 years and not more than 15 years, except that there shall be no penalty imposed if the borrower repays the loan before the established repayment period;

"(4) the interest rate charged and the security required with respect to such loan or advance of credit is acceptable to the Board;

"(5) the amount of such loan or advance of credit does not exceed $15,000;

"(6) the entity from which such loan or advance of credit is purchased agrees to loan or advance credit for the purpose specified in subsection (b) in an amount equal to the amount of the loan or advance of credit which is purchased; and

"(7) such loan or advance of credit meets other requirements established by the Board as necessary to carry out this section in an efficient and effective manner.".

(h) Section 315 of such Act is amended by adding the following new subsection at the end thereof:

12 USC 1723h. "(h) For purposes of this section and section 316—

"(1) the term 'Bank' means the Solar Energy and Energy Conservation Bank established under section 505 of the Solar Energy and Energy Conservation Bank Act; Definitions.

"(2) the term 'Board' means the Board of Directors of the Bank; *Ante*, p. 722.

"(3) the term 'residential building' has the meaning given such term in section 504(2) of the Solar Energy and Energy Conservation Bank Act;

"(4) the term 'residential energy conserving improvements' has the meaning given such term in section 504(6) of the Solar Energy and Energy Conservation Bank Act; and *Ante*, p. 719.

"(5) the term 'solar energy system' has the meaning given such term in section 504(8) of the Solar Energy and Energy Conservation Bank Act.".

(i) The section heading of section 315 of such Act is amended to read as follows:

"AUTHORITY OF SOLAR ENERGY AND ENERGY CONSERVATION BANK TO PURCHASE LOANS AND ADVANCES OF CREDIT FOR ENERGY CONSERVING IMPROVEMENTS OR SOLAR ENERGY SYSTEMS".

AUTHORITY OF SOLAR ENERGY AND ENERGY CONSERVATION BANK TO PURCHASE MORTGAGES SECURED BY NEWLY CONSTRUCTED HOMES WITH SOLAR ENERGY SYSTEMS

SEC. 532. (a) Section 316(a) of the Federal National Mortgage Association Charter Act is amended— 12 USC 1723h.

(1) by striking out "The Secretary" and inserting in lieu thereof "Unless the Board of Directors of the Solar Energy and Energy Conservation Bank established in section 505 of the Solar Energy and Energy Conservation Bank Act finds it unnecessary to utilize this section in order to advance the national program of energy conservation through the use of solar energy systems in residential buildings, the Board";

(2) by striking out "Association" and inserting in lieu thereof "Bank"; and

(3) by striking out "loans and advances of credits" and inserting in lieu thereof "mortgages".

(b) Section 316(b) of such Act is amended—

(1) by striking out "Secretary", "Association", and "loans and advances of credit" in the first sentence and inserting in lieu thereof "Board", "Bank", and "mortgages", respectively;

(2) by striking out "which are made to owners" in the first sentence and all that follows through the period at the end of such sentence and inserting in lieu thereof "which are secured by newly constructed one- to four-family dwelling units with solar energy systems and residential energy conserving improvements meeting or exceeding cost-effective energy conservation standards established by the Secretary of Housing and Urban Development.";

(3) by striking out "loan or advance of credit" the first time it appears in the second sentence and inserting in lieu thereof "mortgage";

(4) by striking out "fifteen" in paragraph (1) and inserting in lieu thereof "thirty";

(5) by striking out paragraphs (2) and (3) and inserting in lieu thereof the following new paragraphs:

"(2) the interest rate charged with respect to such mortgage is acceptable to the Board;

"(3) the principal amount of such mortgage does not exceed the principal amount which could be insured under section 203(b) of the National Housing Act with respect to the dwelling unit concerned;";

12 USC 1709.

(6) by striking out "loan or advance of credit" in paragraphs (1), (4), and (5) and inserting in lieu thereof "mortgage";

(7) by striking out "Secretary" in paragraph (4) and inserting in lieu thereof "Board";

(8) by striking out "and" at the end of paragraph (5); and

(9) by striking out paragraph (6) and inserting in lieu thereof the following new paragraphs:

"(6) the dwelling which secures such mortgage is purchased after the date of enactment of the Solar Energy and Energy Conservation Bank Act; and

Ante, p. 719.

"(7) such mortgage meets other requirements established by the Board as necessary to carry out this section in an efficient and effective manner.".

12 USC 1723h.

(c) Section 316(c) of such Act is amended by striking out "Association" and "Association's" each time they appear and inserting in lieu thereof "Bank" and "Bank's", respectively.

(d) Section 316(d) of such Act is amended by striking out "loan" and "Association" each time they appear and inserting in lieu thereof "mortgage" and "Bank", respectively.

(e) Section 316(e) of such act is amended by striking out "Association" and "loans and advances of credit" and inserting in lieu thereof "Bank" and "mortgages", respectively.

(f) Section 316(f) of such Act is amended by striking out "Secretary" and "$100,000,000" and inserting in lieu thereof "Board" and "$800,000,000", respectively.

(g) Section 316(g) of such Act is amended by striking out "Secretary", "Association", "loans and advances of credit", "loan or advance", and "loans and advances" and inserting in lieu thereof "Board", "Bank", "mortgages", "mortgage", and "mortgages", respectively.

(h) Section 316 of such Act is amended—

(1) by striking out subsections (h), (i), and (j); and

(2) by striking out the section heading and inserting in lieu thereof the following:

"AUTHORITY OF SOLAR ENERGY AND ENERGY CONSERVATION BANK TO PURCHASE MORTGAGES SECURED BY NEWLY CONSTRUCTED HOMES WITH SOLAR ENERGY SYSTEMS".

REPEAL

12 USC 1723f.

SEC. 533. Section 314 of the Federal National Mortgage Association Charter Act is repealed.

SECONDARY FINANCING BY FEDERAL HOME LOAN MORTGAGE CORPORATION AND BY FEDERAL NATIONAL MORTGAGE ASSOCIATION

12 USC 1454.

SEC. 534. (a)(1) Section 305(a)(1) of the Federal Home Loan Mortgage Corporation Act is amended by inserting the following before the period at the end of the first sentence: "or from any public utility

carrying out activities in accordance with the requirements of title II of the National Energy Conservation Policy Act if the residential mortgage to be purchased is a loan or advance of credit the original proceeds of which are applied for in order to finance the purchase and installation of residential energy conservation measures (as defined in section 210(11) of the National Energy Conservation Policy Act) in residential real estate". 42 USC 8211. *Infra.*

(2) Section 302(h) of such Act is amended by inserting ", or made by a public utility and purchased by the Corporation pursuant to the first sentence of section 305(a)(1)," after "credit for such purposes" in the third sentence. 12 USC 1451. *Ante*, p. 740.

(b) Section 302(b)(3) of the Federal National Mortgage Association Charter Act is amended by inserting the following before the period at the end of the first sentence: ", including loans or advances of credit made, by any public utility carrying out activities in accordance with the requirements of title II of the National Energy Conservation Policy Act, for the purpose of financing the purchase and installation of residential energy conservation measures (as defined in section 210(11) of the National Energy Conservation Policy Act) in a residential building". 12 USC 1717.

SUBTITLE B—UTILITY PROGRAM

DEFINITIONS

SEC. 541. Section 210 of the National Energy Conservation Policy Act is amended by striking out paragraph (9) and inserting in lieu thereof the following: 42 USC 8211.

"(9) The term 'residential building' means any building used for residential occupancy which—

"(A) is not a new building to which final standards under sections 304(a) and 305 of the Energy Conservation and Production Act apply, and 42 USC 6833, 6834.

"(B) contains at least one but not more than four dwelling units and has a system for heating or cooling, or both, except that, after January 1, 1982, such term shall also include any building which contains more than four dwelling units unless such building contains a heating or cooling system, or both, which is a central system.".

STATE LIST OF SUPPLIERS AND CONTRACTORS—REQUIRED WARRANTY

SEC. 542. (a) Section 210(11) of the National Energy Conservation Policy Act is amended by striking out the last sentence. 42 USC 8211.

(b) Section 212(b) of such Act is amended by striking out "and" at the end of paragraph (2), by redesignating paragraph (3) as paragraph (4), and by inserting the following new paragraph after paragraph (2): 42 USC 8213.

"(3) shall include provisions requiring that—

"(A) the manufacturer of any residential energy conservation measure offered under a utility program shall, in connection with such measure, warrant in writing that the residential customer for whom the measure is installed, the installation contractor who installs the measure, and the supplier of the measure shall (for those measures found within one year from the date of installation to be defective due to materials, manufacture, or design), at a minimum, be

entitled to obtain, within a reasonable period of time and at no charge, appropriate replacement parts or materials;

"(B) the supplier of any residential energy conservation measure offered under a utility program shall, in connection with such measure, provide, at a minimum, to any person who purchases the measure from such supplier a warranty equivalent to that required under subparagraph (A); and

"(C) the contractor for the installation of any residential energy conservation measure offered under a utility program shall, in connection with such measure, warrant in writing that, at a minimum, any defect in materials, manufacture, design or installation found within one year from the date of installation shall be remedied without charge and within a reasonable period of time; and".

42 USC 8214. (c) Section 213(a)(2)(B) of such Act is amended by inserting "and who agrees to comply with the provisions promulgated under section 212(b)(3)" after "(E)".

Ante, p. 741.

42 USC 8221. (d) Section 220(d) of such Act is amended to read as follows:

"(d) WARRANTIES.—With respect to section 212(b)(3) concerning warranties, all Federal and State laws otherwise applicable to such warranties shall apply, except to the extent inconsistent with such section.".

STATE LIST OF FINANCIAL INSTITUTIONS

SEC. 543. Section 213(a)(3) of the National Energy Conservation Policy Act is amended by inserting the following before the semicolon at the end thereof: ", and provides that such list shall include a notation informing customers that financial assistance under the Solar Energy and Energy Conservation Bank Act may be available from such lending institutions".

42 USC 8214.

Ante, p. 719.

TREATMENT OF UTILITY COSTS

SEC. 544. Section 215 of the National Energy Conservation Policy Act is amended—

42 USC 8216.

(1) by striking out everything that follows "subsection (b) to be" in subsection (c)(1)(C) and inserting in lieu thereof the following: "recovered in the manner specified by the State regulatory authority which has ratemaking authority over such utility (or in the case of a nonregulated utility in the manner specified by such nonregulated utility); except that the amount that may be recovered directly from a residential customer for whom the activities described in subsection (b) are performed shall not exceed a total of $15 per dwelling unit or the actual cost of such activities, whichever is less; in determining the amount to be recovered directly from customers as provided under this subparagraph, the State regulatory authority (in the case of a regulated utility) or the utility (in the case of a nonregulated utility) shall take into consideration, to the extent practicable, the customers' ability to pay and the likely levels of participation in the utility program which will result from such recovery.";

(2) by striking out subsection (c)(1)(D);

(3) by striking out subsection (c)(2)(A);

(4) by striking out "(B)" in subsection (c)(2)(B) and inserting in lieu thereof "(2)(A)";

(5) by striking out "(C)" in subsection (c)(2)(C) and inserting in lieu thereof "(B)"; and

(6) by striking out subsection (f) and inserting in lieu thereof the following:

"(f) LOANS.—In the case of a loan which is arranged by a public utility under subsection (b)(1)(C), the utility, at the request of the person making such loan, shall permit repayment of the loan as part of the periodic utility bill. The utility may recover from the person making such loan the cost incurred by the utility in carrying out such manner of repayment.".

TAX TREATMENT

SEC. 545. Section 216 of the National Energy Conservation Policy Act is amended by adding the following new subsection at the end thereof: 42 USC 8217.

"(i) TAX TREATMENT.—The value of any subsidy provided by a utility to any residential customer for the purchase and installation of residental energy conservation measures shall not be included in the gross income of such customer for purposes of the Internal Revenue Code of 1954, and such customer shall not receive any increase in basis under the Internal Revenue Code of 1954 which is attributable to any such subsidy.". 26 USC 1 *et seq.*

SUPPLY, INSTALLATION, AND FINANCING BY PUBLIC UTILITIES

SEC. 546. (a) Section 216 of the National Energy Conservation Policy Act is amended— 42 USC 8217.

(1) by striking out the section heading and inserting in lieu thereof the following:

"SEC. 216. SUPPLY AND INSTALLATION BY PUBLIC UTILITIES.";

(2) by striking out subsection (a) and inserting in lieu thereof the following:

"(a) PROHIBITION ON SUPPLY AND INSTALLATION BY PUBLIC UTILITIES.—Except as provided in this section, no public utility may supply or install a residential energy conservation measure for any residential customer.";

(3) by striking out "(1)" in subsection (b); and

(4) by striking out subsection (c) and inserting in lieu thereof the following:

"(c) EXEMPTION FROM PROHIBITION ON SUPPLY AND INSTALLATION.—(1) The prohibition contained in subsection (a) shall not apply to any residential energy conservation measure supplied or installed by a public utility through contracts between such utility and independent suppliers or contractors where the customer requests such supply or installation and each such supplier or contractor—

"(A) is on the list of suppliers and contractors referred to in section 213(a)(2); *Ante*, p. 742.

"(B) is not subject to the control of the public utility, except as to the performance of such contract, and is not an affiliate or a subsidiary of such utility; and

"(C) if selected by the utility, is selected in a manner consistent with paragraph (2).

"(2) As provided under the provisions described in section 213(b)(2)(D), activities of a public utility under paragraph (1)—

"(A) may not involve unfair methods of competition;

"(B) may not have a substantial adverse effect on competition in the area in which such activities are undertaken nor result in providing to any supplier or contractor an unreasonably large share of contracts for the supply or installation of residential energy conservation measures;

"(C) shall be undertaken in a manner which provides, subject to reasonable conditions the utility may establish to insure the quality of supply and installation of residential energy conservation measures, that any financing by the utility of such measures shall be available to finance supply or installation by any contractor on the lists referred to in section 213(a)(2) or to finance the purchase of such measures to be installed by the customer;

Ante, p. 742.

"(D) to the extent practicable and consistent with subparagraphs (A), (B), and (C), shall be undertaken in a manner which minimizes the cost of residential energy conservation measures to such customers; and

"(E) shall include making available upon request a current estimate of the average price of supply and installation of residential energy conservation measures subject to the contracts entered into by the public utility under paragraph (1).".

42 USC 8214.

(b) Section 213(b)(2) of such Act is amended by striking out "and" at the end of subparagraph (A), by striking out the period at the end of subparagraph (B) and inserting in lieu thereof a semicolon, and by adding at the end thereof the following new subparagraphs:

"(C) provisions to assure that, whenever any public utility undertakes to finance its lending program for residential energy conservation measures through financial institutions, the utility shall (to the extent such utility determines feasible, consistent with good business practice, and not disadvantageous to its customers) seek funds for such financing from financial institutions located throughout the area covered by the lending program; and

"(D) provisions to assure that, in the case of any residential energy conservation plan which permits or requires any such utility to supply or install any residential energy conservation measure, the procedures under which any such utility undertakes such supply or installation will be consistent with the requirements of section 216(c)."

Ante, p. 743.

(c) Section 213(a) of such Act is amended by striking out "and" at the end of paragraph (7), by striking out the period at the end of paragraph (8) and inserting in lieu thereof "; and", and by adding at the end thereof the following new paragraph:

"(9) requires any utility undertaking a program involving the supply or installation of any residential energy conservation measure as permitted under section 216(c) or providing financing for the purchase or installation of any such measure to notify the Secretary of Energy when such program becomes effective."

AUTHORITY TO MONITOR AND TERMINATE SUPPLY, INSTALLATION, AND FINANCING BY UTILITIES

SEC. 547. Section 216(g) of the National Energy Conservation Policy Act is amended to read as follows:

42 USC 8217.

"(g) AUTHORITY TO MONITOR AND TERMINATE SUPPLY, INSTALLATION, OR FINANCING BY UTILITIES.—(1) The Secretary, in consultation with the Federal Trade Commission, shall monitor financing, supply, and installation activities of public utilities in connection with

Report to Congress.

residential energy conservation measures and shall report annually to Congress on such activities. Each such report shall contain the comments of the Federal Trade Commission.

"(2) After the date of the enactment of this subsection, no public utility may make any loan or finance the purchase or installation of, or supply or install, any residential energy conservation measure if the Secretary has determined, after notice and opportunity for public hearing, and after consultation with the Federal Trade Commission, that—

"(A) such loans are being made, or supply or installations carried out, by such utility at unreasonable rates or on unreasonable terms and conditions, or

"(B) such loans made, or supply or installations carried out, by such utility have a substantial adverse effect upon competition or involve the use of unfair, deceptive, or anticompetitive acts or practices or are being carried out in a manner which does not comply with subsection (c).".

UNFAIR COMPETITIVE PRACTICES

SEC. 548. Nothing in any amendment made by this subtitle shall be construed to— 42 USC 8211 note.

(1) bar any person from taking any action with respect to any anticompetitive act or practice related to activities conducted under any program established under this title; or

(2) convey to any person immunity from civil or criminal liability, create defenses to actions under antitrust laws, or modify or abridge any private right of action under such laws.

EFFECTIVE DATE

SEC. 549. (a) The amendments made by this subtitle shall become effective on the date of the enactment of this Act. 42 USC 8211 note.

(b) As soon as practicable, but in no event later than 120 days after such date of enactment, the Secretary shall promulgate rules amending the regulations under section 212 of the National Energy Conservation Policy Act so that the amendments made by this subtitle will be carried out. Rules. *Ante*, p. 741.

(c) The provisions of section 218 of the National Energy Conservation Policy Act shall apply with respect to temporary programs proposed under such section after the effective date of this subtitle; except that, for the purposes of the application described in the first sentence of such section, the phrase "180 days after the promulgation of rules pursuant to section 212" shall refer to 180 days after the promulgation of rules required by subsection (b). 42 USC 8219.

(d) Nothing in this Act shall have the effect of delaying the date required for submission and approval or disapproval of residential energy conservation plans meeting the requirements of the National Energy Conservation Policy Act in effect before the enactment of this Act. 42 USC 8201 note.

RELATIONSHIP TO OTHER LAWS

SEC. 550. Section 220 of the National Energy Conservation Policy Act is amended by adding the following new subsection at the end thereof: *Ante*, p. 742.

"(e) PUBLIC UTILITY HOLDING COMPANY ACT.—For purposes of section 11(b)(1) of the Public Utility Holding Company Act of 1935, any financing, supply, or installation of residential energy conserva- 15 USC 79k.

tion measures under this part by a public utility company or utility holding company system subject to such Act shall be construed as an activity or business which is reasonably incidental or economically necessary or appropriate to the operations of the public utility company or utility holding company system.".

SUBTITLE C—RESIDENTIAL ENERGY EFFICIENCY PROGRAM

PURPOSE

42 USC 8235 note.

SEC. 561. It is the purpose of this subtitle—

(1) to establish a program under which the Secretary of Energy may provide assistance to State and local governments to encourage up to four demonstration programs that make energy conservation measures available without charge to residential property owners and tenants under a plan designed to maximize the energy savings available in residential buildings in designated areas; and

(2) to demonstrate through such program prototype residential energy efficiency plans under which State and local governments, State regulatory authorities, and public utilities may participate in a cooperative manner with public or private entities to install energy conservation measures in the greatest possible number of residential buildings within their respective jurisdictions or service areas.

AMENDMENT TO THE NATIONAL ENERGY CONSERVATION POLICY ACT

SEC. 562. The National Energy Conservation Policy Act is amended by adding after section 255 the following new part:

"PART 5—RESIDENTIAL ENERGY EFFICIENCY PROGRAMS

42 USC 8235.

"SEC. 261. DEFINITION.

"As used in this part, the term 'residential building' means any building used as a residence which is not a new building to which final standards under sections 304(a) and 305 of the Energy Conservation and Production Act apply and which has a system for heating, cooling, or both.

42 USC 6833, 6834.

42 USC 8235a.

"SEC. 262. APPROVAL OF PLANS FOR PROTOTYPE RESIDENTIAL ENERGY EFFICIENCY PROGRAMS AND PROVISION OF FINANCIAL ASSISTANCE FOR SUCH PROGRAMS.

"(a) PLAN APPROVAL.—The Secretary may approve any plan developed by a State or local government, for the establishment of a prototype residential energy efficiency program, which is designed to demonstrate the feasibility, economics, and energy conserving potential of such program, if an application for such plan is submitted pursuant to section 263, the application is approved pursuant to section 264, and the plan provides for—

"(1) the entering into a contract by a public utility with one or more persons not under the control of, and not affiliates or subsidiaries of, such utility for the implementation of a program to encourage energy conservation, including the supply and installation of the energy conservation measures as specified in such contract in residential buildings located in the portion of

the utility's service area designated by the contract, which contract includes the provisions described in subsection (b);

"(2) the selection by the public utility in a fair, open, and nondiscriminatory manner of the person or persons to contract with pursuant to paragraph (1);

"(3) the payment by the public utility to the person or persons contracted with under paragraph (1) of a specified price for each unit of energy saved by such utility as a result of the program during the period the contract is in effect, which price is based on the value to the utility of the energy saved;

"(4) the determination, by a procedure established by the State or local government developing the plan, of the amount of energy saved by a public utility as a result of the program carried out under the plan, which procedure is described in the contract; Energy savings procedure.

"(5) in the case of a regulated public utility, the approval in writing by the State regulatory authority exercising ratemaking authority over such utility of the contract described in paragraph (1), the manner of selection described in paragraph (2), the payment described in paragraph (3), and the procedure described in paragraph (4); and

"(6) the enforcement of the provisions of the contract, entered into pursuant to paragraph (1), which are required to be included pursuant to subsection (b).

"(b) CONTRACT REQUIREMENTS.—Any contract entered into by a public utility under subsection (a)(1) shall require any person or persons entering into such contract with a public utility to offer to the owner or occupant of each residential building in the portion of the utility's service area designated in the contract, without charge—

"(1) an inspection of such building to determine and inform such owner or occupant of— Inspection.

"(A) the energy conservation measures which will be supplied and installed in such residential building pursuant to paragraph (2);

"(B) the savings in energy costs that are likely to result from the installation of such energy conservation measures;

"(C) suggestions (including suggestions developed by the Secretary) of energy conservation techniques, including adjustments in energy use patterns and modifications in household activities, which can be used by the owner or occupant of the building to save energy and which do not require the installation of energy conservation measures; and

"(D) the savings in energy costs that are likely to result from the adoption of such suggested energy conservation techniques;

"(2) the supply and installation, with the approval of the owner of the residential building, in such building in a timely manner of the energy conservation measures which are as specified in the contract and which the owner or occupant was informed (pursuant to the inspection under paragraph (1)) would be supplied and installed in such building; and

"(3) a written warranty that at a minimum any defect in materials, manufacture, design, or installation of any energy conservation measures supplied and installed pursuant to paragraph (2), found not later than one year after the date of installation, will be remedied without charge and within a reasonable period of time. Written warranty.

"(c) PROVISION OF FINANCIAL ASSISTANCE.—The Secretary may provide financial assistance to any State or local government to carry out any plan for the establishment of a prototype residential energy efficiency program if the plan is approved under subsection (a).

"(d) LIMITATION.—The Secretary may approve under subsection (a) not more than 4 plans for the establishment of prototype residential energy efficiency programs.

42 USC 8235b.

"SEC. 263. APPLICATIONS FOR APPROVAL OF PLANS FOR PROTOTYPE RESIDENTIAL ENERGY EFFICIENCY PROGRAMS.

"Each application for the approval of a plan under section 262(a) for the establishment of a prototype residential energy efficiency program shall be submitted by a State or local government and shall include, at least—

"(1) a description of the plan, including the provisions of the plan specified in section 262(a) and a description of the portion of the service area of the public utility proposing to enter into a contract under section 262(a)(1) which is designated under the contract;

"(2) a description of the manner in which the provisions of the plan specified in section 262(a) are to be met;

"(3) a description of the contract to be entered into pursuant to section 262(a)(1) and the manner in which the requirements of the contract contained in section 262(b) are to be met;

Public hearing record.

"(4) the record of the public hearing conducted pursuant to section 264(a)(2); and

"(5) any other information determined by the Secretary to be necessary to carry out this part.

42 USC 8235c.

"SEC. 264. APPROVAL OF APPLICATIONS FOR PLANS FOR PROTOTYPE RESIDENTIAL ENERGY EFFICIENCY PROGRAMS.

"(a) APPROVAL REQUIREMENTS.—The Secretary may approve an application submitted under section 263 for a plan establishing a prototype residential energy efficiency program only if—

"(1) the application is approved in writing—

"(A) by the public utility which is to enter into the contract under the plan;

"(B) by the State regulatory authority having ratemaking authority over such public utility, in the case of a regulated utility; and

"(C) by the Governor (or any State agency specifically authorized under State law to approve such plans) of the State whose government is submitting the application (if the application is submitted by a State government) or of the State in which the local government is located (if the application is submitted by a local government); and

"(2) the application has been published, a public hearing on the application has been conducted, after notice to the public, at which representatives of the public utility which is to enter into the contract under the plan, persons engaged in the supply or installation of residential energy conservation measures, and members of the public (including ratepayers of such public utility and other interested individuals) had an opportunity to provide comment on the application, and any amendments to the application, which may be made to take into account the proceedings of the hearing, are made.

"(b) FACTORS IN APPROVING APPLICATIONS.—The Secretary shall take into consideraton in approving an application under subsection (a) for a plan establishing a prototype residential energy efficiency program—

"(1) the potential for energy savings from the demonstration of the program;

"(2) the likelihood that the value of the energy saved by public utilities under the program will be sufficient to cover the estimated cost of the energy conservation measures to be supplied and installed under the program;

"(3) the anticipated effects of the program on competition in the portion of the service area of the public utility designated in the contract entered into under the plan; and

"(4) such other factors as the Secretary determines are appropriate.

"SEC. 265. RULES AND REGULATIONS. 42 USC 8235d.

"(a) PROPOSED RULES AND REGULATIONS.—The Secretary shall issue proposed rules and regulations to carry out this part not later than 120 days after the date of the enactment of this part.

"(b) FINAL RULES AND REGULATIONS.—The Secretary shall issue final rules and regulations to carry out this part not later than 90 days after the issuance of proposed rules and regulations under subsection (a).

"SEC. 266. AUTHORITY OF THE FEDERAL ENERGY REGULATORY COMMISSION TO EXEMPT APPLICATION OF CERTAIN LAWS. 42 USC 8235e.

"The Federal Energy Regulatory Commission may exempt from any provisions in sections 4, 5, and 7 of the Natural Gas Act (17 U.S.C. 717c, 717d, and 717f) and titles II and IV of the Natural Gas Policy Act of 1978 (15 U.S.C. 3341 through 3348 and 3391 through 3394) the sale or transportation, by any public utility, local distribution company, interstate or intrastate pipeline, or any other person, of any natural gas which is determined (in the case of a regulated utility, company, pipeline, or person) by the State regulatory authority having rate-making authority over such utility, company, pipeline, or person, or (in the case of a nonregulated utility, company, pipeline, or person) by such utility, company, pipeline, or person, to have been conserved because of a prototype residential energy efficiency program which is established under a plan approved under section 262(a), if the Commission determines that such exemption is necessary to make feasible the demonstration of such prototype residential energy efficiency program. 15 USC 717c, 717d, 717f.

"SEC. 267. APPLICATION OF OTHER LAWS. 42 USC 8235f.

"(a) LACK OF IMMUNITY.—No provision contained in this part—

"(1) shall restrict any agency of the United States or any State from exercising its powers under any law to prevent unfair methods of competition and unfair or deceptive acts or practices;

"(2) shall provide to any person any immunity from civil or criminal liability;

"(3) shall create any defenses to actions brought under the antitrust laws; or

"(4) shall modify or abridge any private right of action under the antitrust laws.

"(b) UTILITY PROGRAMS UNDER PART 1.—Any public utility entering into a contract under a plan for the establishment of a prototype residential energy efficiency program approved under section 262(a) 42 USC 8211.

shall not be required to carry out, with respect to any residential building located in the portion of the utility's service area designated in the contract, the actions required to be contained in such utility's program by subsections (a) and (b) of section 215, if the contract requires such actions (or equivalent actions as determined by the Secretary) to be taken.

42 USC 8216.

"(c) DEFINITION.—For purposes of this section, the term 'antitrust laws' means—

"(1) the Sherman Act (15 U.S.C. 1 et seq.);

"(2) the Clayton Act (15 U.S.C. 12 et seq.);

"(3) the Federal Trade Commission Act (15 U.S.C. 41 et seq.);

"(4) sections 73 and 74 of the Wilson Tariff Act (15 U.S.C. 8 and 9); and

"(5) sections 2, 3, and 4 of the Act entitled 'An Act to amend section 2 of the Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October 15, 1914, as amended (U.S.C., title 15, sec. 13), and for other purposes' approved June 19, 1936 (15 U.S.C. 21a, 13a, and 13b, commonly known as the Robinson-Patman Antidiscrimination Act).

42 USC 8235g.

"SEC. 268. RECORDS AND REPORTS.

"(a) RECORDS.—Each State and local government submitting any application for a plan which is approved under section 262(a), and each public utility and person or persons entering into a contract under such a plan, shall keep such records and make such reports as the Secretary may require. The Secretary and the Comptroller General of the United States shall have access, at reasonable times and under reasonable conditions, to any books, documents, papers, records, and reports of each such State and local government, utility, and person or persons which the Secretary determines, in consultation with the Comptroller General of the United States, are pertinent to this part.

Submittal to President and Congress.

"(b) REPORTS.—The Secretary shall make an annual report to the President on the activities carried out under this part which shall be submitted to the Congress with the annual report on the activities of the Department of Energy required by section 657 of the Department of Energy Organization Act (42 U.S.C. 7267) and which shall contain—

"(1) an estimate of the total amount of energy saved as a result of the activities carried out under this part;

"(2) an estimate of the annual savings in energy anticipated as a result of each prototype residential energy efficiency program established under a plan approved under section 262(a);

"(3) an analysis, developed in consultation with the Federal Trade Commission and the Department of Justice, of the impact on competition of each prototype residential energy efficiency program established under a plan approved under section 262(a); and

"(4) if the Secretary determines that it is appropriate, an analysis of the impact of expanding the approval of plans under section 262(a) to establish prototype residential energy efficiency programs, and the provision of financial assistance to such programs, on a national basis and an assessment of the alternative methods by which such an expansion could be accomplished.

"SEC. 269. REVOKING APPROVAL OF PLANS AND TERMINATING FINANCIAL ASSISTANCE. 42 USC 8235h.

"The Secretary shall revoke the approval of any plan under section 262(a) for the establishment of a prototype residential energy efficiency program, and shall terminate the provision of financial assistance under section 262(c) to carry out such plan, if the Secretary determines, in consultation with the Federal Trade Commission and after notice and the opportunity for a hearing, that carrying out such plan—

"(1) causes unfair methods of competition;

"(2) has a substantial adverse effect on competition in the portion of the service area of the public utility designated by the contract entered into under the plan; or

"(3) provides a supplier or contractor of energy conservation measures with an unreasonably large share of the contracts for the supply or installation of such measures under such plan in the service area of the public utility designated by the contract entered into under such plan.

"SEC. 270. AUTHORIZATION OF APPROPRIATIONS. 42 USC 8235i.

"(a) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this part—

"(1) the sum of $10,000,000 for the fiscal year ending on September 30, 1981; and

"(2) the sum equal to $10,000,000 minus the amount appropriated for the fiscal year ending on September 30, 1981, under the authorization contained in this section, for the fiscal year ending on September 30, 1982.

"(b) AVAILABILITY.—Any funds appropriated under the authorization contained in this section shall remain available until expended.".

AMENDMENT TO THE TABLE OF CONTENTS

SEC. 563. The table of contents of the National Energy Conservation Policy Act is amended by inserting after the item relating to section 255 the following new items:

"PART 5—RESIDENTIAL ENERGY EFFICIENCY PROGRAMS

"Sec. 261. Definition.
"Sec. 262. Approval of plans for prototype residential energy efficiency programs and provision of financial assistance for such programs.
"Sec. 263. Applications for approval of plans for prototype residential energy efficiency programs.
"Sec. 264. Approval of applications for plans for prototype residential energy efficiency programs.
"Sec. 265. Rules and regulations.
"Sec. 266. Authority of the Federal Energy Regulatory Commission to exempt application of certain laws.
"Sec. 267. Application of other laws.
"Sec. 268. Records and reports.
"Sec. 269. Revoking approval of plans and terminating financial assistance.
"Sec. 270. Authorization of Appropriations.".

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SUBTITLE D—ENERGY CONSERVATION FOR COMMERCIAL BUILDINGS AND MULTIFAMILY DWELLINGS

AMENDMENT TO THE NATIONAL ENERGY CONSERVATION POLICY ACT

SEC. 565. The National Energy Conservation Policy Act is amended by adding at the end thereof the following new title:

"TITLE VII—ENERGY CONSERVATION FOR COMMERCIAL BUILDINGS AND MULTIFAMILY DWELLINGS

"PART 1—GENERAL PROVISIONS

42 USC 8281.

"SEC. 710. DEFINITIONS.

"(a) APPLICABILITY OF TITLE II DEFINITIONS.—The definitions in section 210 are applicable to this title, except as otherwise provided in this section.

Ante, p. 741.

"(b) ADDITIONAL DEFINITIONS.—As used in this title—

"(1) The term 'building heating supplier' means any person engaged in the business of selling No. 2, No. 4, or No. 6 heating oil, kerosene, or propane to eligible customers.

"(2) The term 'commercial building' means a building—

"(A) which was completed on or before the date of enactment of this title,

"(B) which is used primarily for carrying out a business (including a nonprofit business) or for carrying out the activities or administration of a State or local government,

"(C) which is not used primarily for the manufacture or production of products, raw materials, or agricultural commodities, and

"(D) for which the average monthly use of energy for the calendar year 1980 is less than 4,000 kilowatt hours of electricity or 1,000 therms of natural gas or the Btu equivalent thereof of any other fuel;

except that such term does not include a Federal building as defined in section 521(2).

42 USC 8241.

"(3) The term 'multifamily dwelling' means a building which is used for residential occupancy, was completed on or before the date of enactment of this title, and contains five or more dwelling units and a central heating or central cooling system.

"(4) The term 'energy efficient improvements' means any change in the operation or maintenance of a commercial building or multifamily dwelling, which change is designed primarily to reduce energy consumption in such building or dwelling and which has been identified by the Secretary in the rules promulgated under section 712(a) or approved by the Secretary for consideration in the energy audits offered to eligible customers under section 731, 732, or 741.

"(5) The term 'commercial energy conservation measure' means an installation or modification of an installation which is primarily designed to reduce the consumption of petroleum, natural gas, or electrical power in a multifamily dwelling or commercial building, including—

"(A) caulking and weatherstripping;

"(B) the insulation of the building or dwelling structure and systems within the building or dwelling;

"(C) storm windows and doors, multiglazed windows and doors, heat absorbing or heat reflecting window and door systems, glazing, reductions in glass area, and other window and door system modifications;

"(D) automatic energy control systems;

"(E) equipment, associated with automatic energy control systems, which is required to operate variable steam, hydraulic, or ventilating systems;

"(F) furnace, or utility plant and distribution system, modifications, including—

"(i) replacement burners, furnaces, boilers, or any combination thereof, which (as determined by the Secretary) substantially increases the energy efficiency of the heating system,

"(ii) devices for modifying flue openings which will increase the energy efficiency of the heating system, and

"(iii) electrical or mechanical furnace ignition systems which replace standing gas pilot lights;

"(G) replacement or modification of a lighting system which increases the energy efficiency of the lighting system without increasing the overall illumination of the building or dwelling (unless such increase in illumination is necessary to conform to any applicable State or local building code or the increase is considered appropriate by the Secretary);

"(H) energy recovery systems;

"(I) cogeneration systems which produce electricity, as well as steam or other forms of thermal or mechanical energy, and which meet such fuel efficiency requirements as the Secretary may, by rule, prescribe;

"(J) a solar energy system, as defined in section 504(8) of the Solar Energy and Energy Conservation Bank Act; and

"(K) such other measures as the Secretary identifies, by rule, for purposes of this title.

"(6) The term 'eligible customer' means—

"(A) with respect to a public utility, the owner or tenant of a commercial building or the owner of a multifamily dwelling to whom that public utility sells natural gas or electricity for use in such building or dwelling, or

"(B) with respect to a building heating supplier, the owner or tenant of a commercial building or the owner of a multifamily dwelling to whom that building heating supplier sells No. 2, No. 4, or No. 6 heating oil, kerosene, or propane for use in such building or dwelling.

"(7) The term 'energy audit' means an onsite inspection of a commercial building or a multifamily dwelling which determines and informs the eligible customer of at least—

"(A) the type, quantity, and rate of energy consumption of such building or dwelling;

"(B) energy efficient improvements appropriate to such building or dwelling; and

"(C) the need, if any, for the purchase and installation of commercial energy conservation measures in such building or dwelling.

The Secretary, after consulting with appropriate State officials, may establish criteria for such audits on a regional basis to account for regional variations in energy use.

"(8) The term 'utility program' means a program meeting the requirements of section 731.

"(9) The term 'building heating supplier program' means a program meeting the requirements of section 732.

42 USC 8281a.

"SEC. 711. COVERAGE.

"This title shall apply to any public utility for which coverage is provided under section 211.

42 USC 8212.

42 USC 8281b.

"SEC. 712. RULES OF SECRETARY FOR SUBMISSION AND APPROVAL OF PLANS.

"(a) PROMULGATION OF RULES BY THE SECRETARY.—The Secretary shall, not later than 120 days after enactment of this title and after consultation with the Secretary of Housing and Urban Development and the heads of such other agencies as the Secretary deems appropriate, publish proposed rules on the content and implementation of State energy conservation plans for commercial buildings and multifamily dwellings which meet the requirements of this title. After publication of such proposed rules, the Secretary shall afford interested persons (including Federal and State agencies) an opportunity to present oral and written comments on such proposed rules. Rules prescribing the content and implementation of State energy conservation plans for commercial buildings and multifamily dwellings shall be published not earlier than forty-five days after publication of the proposed rules.

Oral and written comments.

"(b) ENERGY EFFICIENT IMPROVEMENTS OF DIFFERENT TYPES AND CATEGORIES.—The rules promulgated under subsection (a) may identify energy efficient improvements in different types of commercial buildings and multifamily dwellings by climatic region and by categories determined by the Secretary on the basis of type of construction and any other factors which the Secretary deems appropriate. Such improvements shall be considered in the energy audits offered to eligible customers under sections 731, 732, and 741.

"(c) COORDINATION.—The rules promulgated under subsection (a) shall, to the extent practicable, coordinate the requirements of this title with the provisions of section 367(b)(1) of the Energy Policy and Conservation Act and with the utility program established under title II, part 1 of this Act. Such rules shall not have the effect of delaying the submission, approval, or implementation of residential energy conservation plans under title II, part 1 of this Act.

42 USC 6327.
42 USC 8211.

"(d) OTHER RULES.—The Secretary may prescribe any other rules necessary to carry out the provisions of this title.

"PART 2—ENERGY CONSERVATION PLANS

42 USC 8282.

"SEC. 721. PROCEDURES FOR SUBMISSION AND APPROVAL OF STATE ENERGY CONSERVATION PLANS FOR COMMERCIAL BUILDINGS AND MULTIFAMILY DWELLINGS.

"(a) SUBMISSION AND APPROVAL OF STATE PLANS.—Not later than 180 days after the promulgation of rules under section 712(a), the Governor of each State (or any State agency specifically authorized to do so under State law) may submit to the Secretary a proposed energy conservation plan for commercial buildings and multifamily dwellings which meets the requirements of the rules promulgated under section 712. Within such 180-day period, each nonregulated utility shall submit a proposed plan, which meets the requirements of the rules promulgated under section 712, to the Secretary unless a plan

submitted under the preceding sentence for the State in which the nonregulated utility provides utility service applies to nonregulated utilities as provided in subsection (b). The Secretary may, upon request of the Governor or State agency or nonregulated utility, extend for good cause shown, the time period for submission of a plan. Each plan submitted in accordance with this subsection shall be reviewed and approved or disapproved in accordance with the procedures of subparagraphs (B) and (C) of section 212(c)(1). 42 USC 8213.

"(b) NONREGULATED UTILITIES.—Any plan submitted by a Governor or State agency under subsection (a) may, in the discretion of the Governor if he notifies the Secretary within 30 days after promulgation of rules under section 712(a), apply to nonregulated utilities providing utility service in the State in the same manner as to regulated utilities. In any such case, reference elsewhere in this title to regulated utilities (including references to utilities with respect to which a State regulatory authority exercises ratemaking authority) shall, with respect to such State, be treated as references also to nonregulated utilities and references elsewhere in this title to nonregulated utilities shall not apply. For purposes of this subsection, the term 'nonregulated utility' shall not include any public utility which is a Federal agency. "Nonregulated utility."

"(c) PLAN FOR BUILDING HEATING SUPPLIERS.—A plan applicable to building heating suppliers may be submitted by the Governor in his discretion.

"(d) TENNESSEE VALLEY AUTHORITY.—In the case of the Tennessee Valley Authority or any public utility with respect to which the Tennessee Valley Authority has ratemaking authority, the authority otherwise vested in the Governor or State agency under this section shall be vested in the Tennessee Valley Authority.

"SEC. 722. REQUIREMENTS FOR STATE PLANS FOR REGULATED UTILITIES. 42 USC 8282a.

"No proposed energy conservation plan for commercial buildings and multifamily dwellings submitted for regulated utilities shall be approved by the Secretary unless such plan—

"(1) requires each regulated utility to implement a program which meets the requirements of section 731 and such other requirements as may be contained in the rules promulgated by the Secretary under section 712, except that no such program may be required to apply to all of the multifamily dwellings and commercial buildings located within such utility's service area if, within 6 months from the date on which the Secretary's rules are promulgated with respect to such program, the State regulatory authority which exercises ratemaking authority over such utility determines that the inclusion of such additional buildings or dwellings would significantly impair such utility's ability—

"(A) to fulfill the requirements of section 215, or *Ante*, p. 742.

"(B) to provide utility service to its customers.

"(2) provides adequate State procedures for implementing the enforcment of the plan;

"(3) provides procedures for insuring that effective coordination exists among various local, State, and Federal energy conserving programs within and affecting such State; and

"(4) is adopted after notice and public hearing. Hearing.

42 USC 8282b.

"SEC. 723. PLAN REQUIREMENTS FOR NONREGULATED UTILITIES AND BUILDING HEATING SUPPLIERS.

"(a) REQUIREMENTS FOR PLANS FOR NONREGULATED UTILITIES.—No plan proposed by a nonregulated utility shall be approved by the Secretary unless such plan meets the same requirements as provided under section 722 for regulated utilities. In applying the requirements of section 722 in the case of a plan for a nonregulated utility under this section, any reference to a regulated utility shall be treated as a reference to a nonregulated utility and the reference to the State regulatory authority shall be treated as a reference to the Governor.

"(b) REQUIREMENTS FOR PLANS FOR BUILDING HEATING SUPPLIERS.—No plan proposed for building heating suppliers shall be approved by the Secretary unless such plan meets the same requirements as provided under paragraphs (3) and (4) of section 722 and—

"(1) meets the requirements of section 732 and contains adequate enforcement procedures with respect to such requirements;

"(2) meets such requirements applicable to building heating suppliers as may be contained in the rules promulgated under section 712; and

"(3) takes into account the resources of small building heating suppliers.

"PART 3—UTILITY PROGRAMS

42 USC 8283.

"SEC. 731. UTILITY PROGRAMS.

"(a) GENERAL REQUIREMENTS.—Each utility program shall include procedures designed to provide that each public utility—

"(1) offers to each eligible customer, no later than 12 months after the approval of the applicable plan and every 24 months thereafter until 1990, an energy audit of the eligible customer's commercial building or multifamily dwelling;

"(2) conditions the availability of an energy audit in the case of a multifamily dwelling upon the agreement by the eligible customer to provide to the tenants of the customer's multifamily dwelling the information developed by such audit concerning energy efficient improvements and commercial energy conservation measures applicable to the individual dwelling units in such dwelling;

"(3) maintains a report of each audit performed pursuant to this subsection with respect to a commercial building or multifamily dwelling for not less than 10 years, which report shall be available to any subsequent eligible customer of such commercial building or multifamily dwelling; and

"(4) shall not be required to conduct an energy audit of a commercial building or multifamily dwelling which has been audited previously pursuant to this title or title III;

Ante, p. 752, 42 USC 6371 note.

except that any public utility may contract with one or more persons, including another utility, to carry out directly some or all of the responsibilities required by this subsection.

"(b) REQUIREMENTS CONCERNING ACCOUNTING AND PAYMENT OF COSTS.—Each State regulatory authority or nonregulated utility shall, within 180 days after promulgation of rules under section 712(a), or such longer period as the Secretary for good cause may allow, provide—

"(1) that all amounts expended or received by the utility which are attributable to the utility program (including any penalties paid by such utility under section 741) are accounted for on the books and records of the public utility separately from amounts attributable to all other activities of such utility;

"(2) that all amounts expended by a utility for providing information concerning the availability of the energy audit offered pursuant to subsection (a)(1) are to be treated for such purposes as a current expense of providing utility service and charged to all ratepayers of such utility in the same manner as current operating expenses of providing such utility service; and

"(3) that all other amounts expended by a public utility to carry out the provisions of this title, are recovered in the manner specified by the State regulatory authority which has rate-making authority over such utility (or in the case of a nonregulated utility in the manner specified by such nonregulated utility); except that, in the case of a multifamily dwelling, the amount which may be recovered directly from an eligible customer for whom the activities described in subsection (a) are performed shall not exceed a total of $15 per dwelling unit or the actual cost of such activities, whichever is less; in determining the amount to be recovered directly from customers as provided under this paragraph, the State regulatory authority (in the case of a regulated utility) or the utility (in the case of a nonregulated utility) shall take into consideration, to the extent practicable, the customers' ability to pay and the likely levels of participation in the utility program which will result from such recovery.

"(c) RATEPAYER.—For purposes of subsection (b), the term 'ratepayer' means any person, State agency, or Federal agency who purchases electric energy or natural gas from a utility for purposes other than for resale.

"SEC. 732. BUILDING HEATING SUPPLIER PROGRAM. 42 USC 8283a.

"(a) REQUIREMENTS.—Except as may be provided by the Secretary, the procedures for each building heating supplier program shall be identical to the procedures required for utilities in section 731(a).

"(b) WAIVER.—The Governor may waive, for any building heating supplier, any requirement established pursuant to this section, upon demonstration to the Governor's satisfaction that the resources of such supplier do not enable the supplier to comply with such requirement.

"PART 4—FEDERAL IMPLEMENTATION

"SEC. 741. FEDERAL STANDBY AUTHORITY. 42 USC 8284.

"(a) PROMULGATION OF PLAN BY THE SECRETARY.—If a State does not have a plan approved under section 721 within 270 days after promulgation of rules under section 712(a), or within such additional period as the Secretary may allow pursuant to section 721(a), or if the Secretary determines after notice and opportunity for a public hearing that an approved plan is not being adequately implemented in such State, the Secretary shall—

"(1) promulgate a plan which meets the requirements of section 722; and

"(2) under such plan, by order, require each regulated utility in the State to offer, no later than 90 days following the date of issuance of such order, to its eligible customers a utility program

That in making such selection preference shall be given to any community action agency or other public or nonprofit entity which has, or is currently administering, an effective program under this title or under title II of the Economic Opportunity Act of 1964.".

42 USC 6851, 2781.

STANDARDS AND PROCEDURES FOR THE WEATHERIZATION PROGRAM

42 USC 6863.

SEC. 574. Section 413(b) of the Energy Conservation in Existing Buildings Act of 1976 is amended by adding the following new paragraph at the end thereof:

"(4) In carrying out paragraphs (2)(A) and (3), the Secretary shall establish the standards and procedures described in such paragraphs so that weatherization efforts being carried out under this part and under programs described in the fourth sentence of paragraph (3) will accomplish uniform results among the States in any area with a similar climatic condition.".

LIMITATIONS ON EXPENDITURES

Ante, p. 759.

SEC. 575. Section 415(c)(1)(D) of the Energy Conservation in Existing Buildings Act of 1976 is amended by striking out "$100" and inserting in lieu thereof "$150".

AUTHORIZATION OF APPROPRIATIONS

42 USC 6872.

SEC. 576. Section 422 of the Energy Conservation in Existing Buildings Act of 1976 is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 422. There is authorized to be appropriated for purposes of carrying out the weatherization program under this part, the sum of $55,000,000 for the fiscal year ending on September 30, 1977, the sum of $130,000,000 for the fiscal year ending on September 30, 1978, the sum of $200,000,000 for the fiscal year ending on September 30, 1979, the sum of $200,000,000 for the fiscal year ending on September 30, 1980, and the sum of $200,000,000 for the fiscal year ending on September 30, 1981, such sums to remain available until expended.".

TECHNICAL AMENDMENTS

SEC. 577. Part A of the Energy Conservation in Existing Buildings Act of 1976 is amended—

42 USC 6862.

(1) by striking out section 412(1) and inserting in lieu thereof the following:

"(1) The term 'Secretary' means the Secretary of Energy.";

(2) by striking out "Administrator" each time it appears therein and inserting in lieu thereof "Secretary"; and

42 USC 6869.

(3) by striking out "Administrator's" in the first sentence of section 419(a) and inserting in lieu thereof "Secretary's".

SUBTITLE F—ENERGY AUDITOR TRAINING AND CERTIFICATION

PURPOSE

42 USC 8285.

SEC. 581. It is the purpose of this subtitle to encourage the training and certification of individuals to conduct energy audits for residen-

tial and commercial buildings in order to serve the various private and public needs of the Nation for energy audits.

DEFINITIONS

42 USC 8285a.

SEC. 582. For the purposes of this subtitle—

(1) the term "Governor" means the chief executive officer of each State, including the Mayor of the District of Columbia;

(2) the term "State" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands;

(3) the term "energy audit" means an inspection as described in section 215(b)(1)(A) of the National Energy Conservation Policy Act, or an energy audit as defined in section 710(b)(7) of such Act, which in addition may provide information on the utilization of renewable resources and may make energy-related improvements in the building; and

(4) the term "Secretary" means the Secretary of Energy.

GRANTS

42 USC 8285b.

SEC. 583. (a) The Secretary may make grants to any Governor of a State for the training and certification of individuals to conduct energy audits.

Applications.

(b) Before making a grant under subsection (a) to a Governor, the Secretary must receive from the Governor an application containing—

(A) any information which the Secretary deems is necessary to carry out this subtitle; and

(B) an assurance that the grant will supplement and not supplant other funds available for such training and certification and will be used to increase the total amount of funds available for such training and certification.

(c)(1) Before making any grant under subsection (a) the Secretary shall establish minimum standards for the training and certification of individuals to conduct energy audits.

(2) The Secretary shall require each Governor receiving any grant under this subtitle to agree to meet the standards established pursuant to paragraph (1) in any training and certification conducted using funds provided under this subtitle.

AUTHORIZATION OF APPROPRIATIONS

42 USC 8285c.

SEC. 584. (a) To carry out this subtitle there is authorized to be appropriated the sum of $10,000,000 for the fiscal year ending on September 30, 1981, and the sum of $15,000,000 for the fiscal year ending on September 30, 1982.

(b) Any funds appropriated under the authorization contained in this section shall remain available until expended.

SUBTITLE G—INDUSTRIAL ENERGY CONSERVATION

AUTHORIZATION OF APPROPRIATIONS

42 USC 6347.

SEC. 591. To accelerate the program of the Department of Energy involving the research, development, and demonstration of energy conserving activities designed to substantially increase productivity

in industry, there is authorized to be appropriated to the Secretary of Energy for industrial energy conservation demonstration projects designed to substantially increase productivity in industry, in addition to any other sums which may be available for such purposes, the sum of $40,000,000 for each of the fiscal years ending on September 30, 1981, and on September 30, 1982.

SUBTITLE H—COORDINATION OF FEDERAL ENERGY CONSERVATION FACTORS AND DATA

CONSENSUS ON FACTORS AND DATA FOR ENERGY CONSERVATION STANDARDS

42 USC 8286.

SEC. 595. The Secretary of Energy shall assure that within 6 months after the date of the enactment of this Act, the Secretary of Energy, the Secretary of Housing and Urban Development, the Secretary of Agriculture, the Secretary of Health and Human Services, the Secretary of Defense, the Administrator of the General Services Administration, and the head of any other agency responsible for developing energy conservation standards for new or existing residential, commercial, or agricultural buildings shall reach a consensus regarding factors and data used to develop such standards. This consensus shall apply to, but not be limited to—

(1) fuel price projections;

(2) discount rates;

(3) inflation rates;

(4) climatic conditions and zones; and

(5) the cost and energy saving characteristics of construction materials.

USE OF FACTORS AND DATA

42 USC 8286a.

SEC. 596. Factors and data consented to pursuant to section 595 may be revised and agreed to by a consensus of the heads of the various Federal agencies involved. Such factors and data shall be used by all Federal agencies in establishing and revising various energy conservation standards used by such agencies, except that other factors and data may be used with respect to the standards applicable to any program if—

(1) the other factors and data are approved by the Secretary of Energy solely on the basis that such other factors and data are critical to meet the unique needs of the program concerned;

(2) using the consented to factors and data would cause a violation of an express provision of law; or

(3) statutory requirements or responsibilities require a modification of the consented to factors and data.

REPORT

Submittal to Congress.
42 USC 8286b.

SEC. 597. The President shall report to the Congress on January 1, 1981, and annually thereafter, with respect to—

(1) the activities which have been carried out under this subtitle; and

(2) other efforts which are being carried out to coordinate the various Federal energy conservation programs.

TITLE VI—GEOTHERMAL ENERGY

Geothermal Energy Act of 1980.

SHORT TITLE

SEC. 601. This title may be cited as the "Geothermal Energy Act of 1980". 30 USC 1501 note.

FINDINGS

SEC. 602. The Congress finds that— 30 USC 1501.

(1) domestic geothermal reserves can be developed into regionally significant energy sources promoting the economic health and national security of the Nation;

(2) there are institutional and economic barriers to the commercialization of geothermal technology; and

(3) Federal agencies should consider the use of geothermal energy in the Government's buildings.

SUBTITLE A

LOANS FOR GEOTHERMAL RESERVOIR CONFIRMATION

SEC. 611. (a) The Secretary of Energy (hereafter in this title referred to as the "Secretary") is authorized to make a loan to any person, from funds appropriated (pursuant to this subtitle) to the Geothermal Resources Development Fund established under section 204 of the Geothermal Energy Research, Development, and Demonstration Act of 1974 (30 U.S.C. 1144), to assist such person in undertaking and carrying out a project which (1) is designed to explore for or determine the economic viability of a geothermal reservoir and (2) consists of surface exploration and the drilling of one or more exploratory wells. 30 USC 1511.

(b) Subject to subsection (c) and to section 613(b), any loan under subsection (a) shall be repayable out of revenue from production of the geothermal energy reservoir with respect to which the loan was made, at a rate, in any year, not to exceed 20 per centum of the gross revenue from the reservoir in that year; except that if any disposition of the geothermal rights to the reservoir is made to one or more other persons by the borrower, the full amount of the loan balance outstanding, or so much of the loan balance outstanding as is equal to the full amount of the compensation realized by the borrower upon such disposition, whichever is less, shall be repaid immediately. In any case where the reservoir is confirmed (as determined by the Secretary), the Secretary may impute a reasonable revenue for purposes of determining repayment if— Repayment.

(1) reasonable efforts are not made to put such reservoir in commercial operation,

(2) the borrower (or any such other person) utilizes the resources of the reservoir without a sale of the energy or geothermal energy resources therefrom, or

(3) a sale of energy or geothermal energy resources from the reservoir is made for an unreasonably low price;

except that no such imputation of revenue shall be made during the three-year period immediately following such reservoir confirmation. In the event of failure to begin production of revenue (or, where no sale of energy or geothermal energy resources is made, to begin production of energy for commercial use) within five years after the date of such reservoir confirmation, the Secretary may take action to Production failure.

recover the value, not to exceed the amount of the unpaid balance of the loan plus any accrued interest thereon, of any assets of the project in question, including resource rights.

Cancellation.

(c) The Secretary may at any time cancel the unpaid balance and any accrued interest on any loan made under this section if he determines, on the basis of evidence presented by the loan recipient or otherwise, that the geothermal energy reservoir with respect to which the loan was made has characteristics which make that reservoir economically or technically unacceptable for commercial development.

"Person."

(d) As used in this subtitle, the term "person" includes municipalities, electric cooperatives, industrial development agencies, nonprofit organizations, and Indian tribes, as well as the entities included within such term under 1 U.S.C. 1.

LOAN SIZE LIMITATION

30 USC 1512.

SEC. 612. The amount of any loan made under section 611(a) with respect to a project described in that section shall not exceed 50 percent of the cost of such project; except that if the loan is made to a person proposing to make application of the resources of the reservoir involved primarily for space heating or cooling or process heat for one or more structures or facilities then existing or under construction, the loan may be in any amount up to 90 per centum of such cost. In any event no loan shall be made in an amount in excess of $3,000,000.

LOAN RATE AND REPAYMENT

30 USC 1513.

SEC. 613. (a) Each loan made under section 611 shall bear interest at a discount or interest rate equal to the rate in effect (at the time the loan is made) for water resources planning projects under section 80 of the Water Resources Development Act of 1974 (42 U.S.C. 1962(d)-17(a)).

42 USC 1962d-17.

(b) Each such loan shall be for a term which the Secretary deems appropriate, except that no loan term shall exceed twenty years beyond the date on which production of energy or geothermal energy resources begins from the reservoir involved. If revenues are inadequate (as determined by the Secretary) to fully repay the principal and accrued interest within twenty years after production begins, any remaining unpaid amounts shall be forgiven.

PROGRAM TERMINATION

30 USC 1514.

SEC. 614. No new loans shall be made under this subtitle after September 30, 1986. Amounts repaid on or before September 30, 1986, on loans theretofore made under section 611 shall be deposited in the Geothermal Resources Development Fund for purposes of this subtitle. Amounts repaid after that date on loans theretofore made under section 611, and amounts deposited in the Fund for purposes of this subtitle which remain in the Fund after that date and are not required to secure outstanding obligations under this subtitle, shall be deposited into the United States Treasury as miscellaneous receipts.

REGULATIONS

30 USC 1515.

SEC. 615. The Secretary shall promulgate regulations to carry out this subtitle no later than six months after the date of the enactment of this Act.

AUTHORIZATIONS

SEC. 616. There are hereby authorized to be appropriated for loans under this subtitle not to exceed $5,000,000 for fiscal year 1981, and not to exceed $20,000,000 for each of the four succeeding fiscal years. Amounts so appropriated shall be deposited in the Geothermal Resources Development Fund for purposes of this subtitle, and shall remain available for such purposes until expended. 30 USC 1516.

SUBTITLE B

RESERVOIR INSURANCE PROGRAM STUDY

SEC. 621. The Secretary shall conduct a detailed study of the need for and feasibility of establishing a reservoir insurance and reinsurance program incorporating the terms, conditions, and provisions set forth in section 622, and shall submit to the Congress within one year after the date of the enactment of this Act a report on the results of such study including his findings and recommendations with respect thereto. Report to Congress. 30 USC 1521.

ESTABLISHMENT OF PROGRAM

SEC. 622. (a) If the report of the Secretary submitted pursuant to section 621 affirmatively recommends the establishment of the program and the Congress by law (after review of such recommendation) specifically authorizes the establishment of the program, the Secretary shall establish and implement within six months after the date of the enactment of such authorization a program, in cooperation with the insurance and reinsurance industry, to provide reservoir insurance to qualified eligible applicants in accordance with this section. 30 USC 1522.

(b) For the purpose of this section— Definitions

(1) the term "investment" means the expenditure of, and any irrevocable legal obligation to expend, funds (together with the reasonable interest costs thereof) for the purchase or construction of machinery, equipment, and facilities manufactured, or for services contracted to be furnished, for the development and utilization of a geothermal resource in the United States to provide energy in the form of heat for direct use or for generation of electricity;

(2) the term "geothermal resource" means a resource in the United States including (A) all products of geothermal processes embracing indigenous steam, hot water, and hot brines; (B) steam and other gases, hot water and hot brines resulting from water, gas, or other fluids artificially introduced into geothermal formations; (C) heat or other associated energy found in geothermal formations; and (D) any byproducts derived from them, where "byproduct" means any mineral or minerals (exclusive of oil, hydrocarbon gas, and helium) which are found in solution or in association with other geothermal resources and which have a value of less than 75 per centum of the value of the geothermal steam or are not, because of quantity, quality, or technical difficulties in extraction and production, of sufficient value to warrant extraction and production by themselves;

(3) the term "risk" means the hazard that a reservoir of geothermal resources will cease to provide sufficient quantities of geothermal resources at minimum conditions required to

maintain an economically or technically viable operation for utilization of the geothermal resource;

(4) the term "reasonable premiums" means premium amounts determined by the Secretary to be reasonable in light of the amount of investment subject to the risk and premiums charged in similar or analogous situations by private insurers where private insurance is concerned and by insurers or guarantors, both public and private, where public insurance is concerned;

(5) the term "other insurance" means any combination of private or public insurance other than investment insurance provided by the Secretary under this section;

(6) the term "reservoir" means the physical subsurface geologic structure which forms the natural repository for the undisturbed geothermal resource; and

(7) the term "person" means any public or private agency, institution, association, partnership, corporation, political subdivision, or other legal entity which is a United States citizen as determined by application of the test for United States citizenship contained in section 2(a)–(c) of the Shipping Act, 1916 (46 U.S.C. 802), or in the first sentence of section 27A of the Merchant Marine Act, 1920 (46 U.S.C. 883–1(a)–(e)).

Investment insurance.

(c) Any person with a total direct investment of not less than $1,000,000 in the development and use, not including exploration and testing, of a geothermal resource associated with a reservoir, and unable to obtain other insurance at reasonable premiums for the amount of the investment subject to risk, as determined by the Secretary under this section, shall be eligible for investment insurance.

(d) Any eligible person seeking investment insurance under this section shall file an application with the Secretary setting forth (1) the total amount of the contemplated investment in a geothermal resource and associated reservoir; (2) the views of the applicant concerning the nature and extent of the risk, including a geologic, engineering, and financial assessment based on site specific results of exploration and testing of the geothermal resource and the reservoir, stated with as much specificity as is possible; (3) the status of all required Federal, State, and local approvals, permits, and leases for the proposed development and utilization operations at the site; (4) the extent to which the applicant has been able to obtain other insurance against the risk; and (5) such other information as the Secretary may require.

(e) Unless the Secretary determines the risk proposed by the applicant is unreasonable, the Secretary, within ninety days after receipt of a satisfactory application, shall determine in writing and submit to the applicant (1) the risk which may cause loss of investment for the applicant; (2) the total investment subject to the risk; (3) the amount of the other insurance which is available at reasonable premiums for the purpose of indemnifying the applicant against the risk; (4) the amount of investment insurance available pursuant to this section, which shall be the difference between the total investment subject to the risk and the total other insurance determined to be available at reasonable premiums, but not in excess of the lesser of 90 per centum of, or $50,000,000 of, the loss of investment subject to the risk; and (5) any reasonable terms and conditions necessary for the prudent administration of the program, including reasonable premiums for the insurance pursuant to this section (which shall be deposited in the Geothermal Resources Development Fund).

(f) The Secretary, within ninety days after making and submitting the determinations under subsection (e), and upon agreement of the applicant to such determinations, shall issue a certificate of insurance containing such terms and conditions as the Secretary shall specify, which shall not be transferrable without the express approval of the Secretary for good cause shown, and shall execute a contract with the applicant setting forth the terms and conditions of the investment insurance and such other provisions as may be necessary to protect the interests of the United States, including provisions with respect to the ownership, use, and disposition of any currency, credits, assets, or investments on account of which payment under such insurance is to be made and any right, title, claim, or course of action existing in relation thereto.

Compensation.

(g) Any holder of a certificate of insurance pursuant to subsection (f) who claims a loss of value of his investment by reason of the specified risk shall receive compensation, to the extent the Secretary determines that the holder is eligible to receive compensation pursuant to the certificate and the contract, in the amount of the loss incurred by the holder which is subject to insurance and for which the holder has not received and will not receive compensation from other insurance.

(h) Any compensation received by the holder shall be withdrawn from the Geothermal Resources Development Fund. The full faith and credit of the United States is hereby pledged to the payment of any compensation under this section.

(i) A person shall not be denied insurance pursuant to this section solely because such person is the recipient of other Federal assistance under this or any other Act.

(j) There may be appropriated to the Geothermal Resources Development Fund (established pursuant to section 204 of the Geothermal Energy Research, Development and Demonstration Act of 1974 (30 U.S.C. 1144)), for purposes of this section, such amounts as are authorized for such purposes in the law referred to in subsection (a) or in other legislation hereafter enacted.

Agreements.

(k) The Secretary may enter into agreements to reinsure any private insurer for any risk associated with insurance for the development and utilization of a geothermal resource and associated reservoir, using the procedures set forth in subsections (c) through (i), to the extent that he deems it appropriate in order to provide an incentive for the participation of the private insurance industry in geothermal development; and he may also use any other available authority to obtain such participation. The Secretary shall submit a report to the Congress, within one year after the enactment of the law referred to in subsection (a), on the need for any additional authority to obtain such participation.

Report to Congress.

SUBTITLE C

FEASIBILITY STUDY LOAN PROGRAM

30 USC 1531.

SEC. 631. (a) The Secretary is authorized and directed to establish a program of assistance for the accelerated development of geothermal resources for nonelectric applications by geothermal utility districts, geothermal industrial development districts, and other persons.

(b)(1) In providing assistance under the program established pursuant to subsection (a), the Secretary is authorized to make a loan to any person to defray up to 90 per centum of the costs of (A) studies to

determine the feasibility of any geothermal development described in such subsection, and (B) preparing applications for any necessary licenses or other Federal, State, and local approvals respecting such development.

Cancellation.

(2) The Secretary may cancel the unpaid balance and any accrued interest on any loan granted for a study pursuant to clause (A) of paragraph (1) if he determines, on the basis of the study, that the geothermal development is not technically or economically feasible.

(c) In providing assistance under such program, the Secretary is also authorized to make a loan to any person to defray up to 75 per centum of the costs directly related to the construction of a system or systems for nonelectric geothermal development pursuant to such subsection, where the Secretary finds that—

(1) all necessary licenses and other required Federal, State, and local approvals for construction of such system or systems have been or will be issued,

(2) the project involved will comply with all applicable laws relating to protection of the environment, and

(3) the applicant requires such assistance to undertake and complete the project.

(d) Each loan made pursuant to this section shall bear interest at a discount or interest rate equal to the rate in effect (at the time the loan is made) for water resources planning projects under section 80 of the Water Resources Development Act of 1974 (42 U.S.C. 1962(d)-17(a)). Each loan shall be for such term as the Secretary deems appropriate, but not in excess of ten years for loans under subsection (b) or thirty years for loans under subsection (c).

42 USC 1962d-17.

(e) Loans pursuant to this section shall be made from funds appropriated (pursuant to this subtitle) to the Geothermal Resources Development Fund established under section 204 of the Geothermal Energy Research, Development, and Demonstration Act of 1974 (30 U.S.C. 1144); and amounts repaid on such loans shall be deposited in the Geothermal Resources Development Fund for purposes of this subtitle.

(f) For loans under clause (A) of subsection (b)(1) for fiscal year 1981, there is authorized to be appropriated to the Geothermal Resources Development Fund not to exceed $5,000,000, which shall remain available until expended. For loans under such clause (A) for subsequent fiscal years, and for loans under clause (B) of subsection (b)(1) or under subsection (c) (for any such subsequent fiscal year), there may be appropriated to such Fund only such sums as are authorized by legislation hereafter enacted.

"Person."

(g) As used in this section, the term "person" includes municipalities, cooperatives, industrial development agencies, nonprofit organizations, and Indian tribes, as well as the districts referred to in subsection (a) and the other entities included within such term under 1 U.S.C. 1.

SUBTITLE D

AMENDMENTS TO GEOTHERMAL RESEARCH, DEVELOPMENT, AND DEMONSTRATION ACT

SEC. 641. Title II of the Geothermal Research, Development, and Demonstration Act of 1974 (30 U.S.C. 1101 et seq.) is amended—

30 USC 1141.

(1) by striking out the period at the end of the first sentence in section 201(c) and inserting in lieu thereof the following: ", except that any guarantee made for a loan to an electric, housing, or

other cooperative, or to a municipality (as defined in section 3(7), part I, of the Federal Power Act), may apply to so much of the principal amount of the loan as does not exceed 90 percent of the aggregate cost of the project. In determining the aggregate cost of a project for purposes of the preceding sentence, there shall be excluded the cost of constructing electrical transmission lines to the extent that the cost of constructing such lines exceeds 25 percent of the aggregate cost of the project (as determined without regard to this sentence); except that the Secretary may waive or limit the application of this sentence with respect to any project located in the State of Hawaii upon a finding that such project is remote from the area of primary consumption, that a transmission line is required before the geothermal reservoir can be developed, and that the particular transmission line involved will be used for more than the plant which is the subject of the loan guarantee.";

16 USC 796.

(2) by striking out "the ten-calendar-year period following the date of enactment of this Act" in section 203 and inserting in lieu thereof "fiscal year 1990"; and

30 USC 1143.

(3) by adding at the end thereof the following new sections:

"APPROVAL OR DISAPPROVAL OF LOAN GUARANTEE APPLICATIONS

"SEC. 206. The Secretary, within sixty days after the enactment of this section, shall establish and implement procedures providing for a final decision on any loan guarantee application within four months of the date of filing. To the maximum extent practical, an applicant should be advised (prior to the submission of the application) of all information which will be required of the applicant in processing the application; and the date of filing shall be considered to be the date when all of such information has been submitted by the applicant. Any application proposed and filed as of the date of the enactment of this section shall be subject to final decision within not more than four months after such date.

30 USC 1146.

"APPLICATION OF NATIONAL ENVIRONMENTAL POLICY ACT

"SEC. 207. The Secretary shall ensure, to the maximum extent possible, that any action undertaken pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 which is associated with the granting of a loan guarantee under this title takes the maximum cognizance allowable under law of any other action theretofore undertaken pursuant to such section 102(2)(C) with respect to the project which is the subject of such loan guarantee, and that no such action associated with the loan guarantee shall duplicate any action theretofore undertaken under such section 102(2)(C) in connection with such project, so long as all of the requirements which are applicable to such project under such section 102(2)(C) will have been satisfied.".

30 USC 1147.

42 USC 4332.

USE OF GEOTHERMAL ENERGY IN FEDERAL FACILITIES

SEC. 642. The option of using geothermal energy or geothermal energy resources shall be considered fully in any new Federal building, facility, or installation which is located in a geothermal resource area as designated by the Secretary.

30 USC 1541.

AMENDMENTS TO FEDERAL POWER ACT AND PUBLIC UTILITY REGULATORY POLICIES ACT

SEC. 643. (a) The Federal Power Act is amended—

16 USC 796.

(1) by inserting "geothermal resources," after "renewable resources," in section 3(17)(A)(i);

16 USC 824i.

(2) by inserting "geothermal power producer (including a producer which is not an electric utility)," after "Federal power marketing agency," in section 210(a)(1); and

16 USC 824j.

(3) by striking out "Any electric utility" at the beginning of section 211(a) and inserting in lieu thereof "Any electric utility, geothermal power producer (including a producer which is not an electric utility),".

16 USC 824a-3.

(b) Section 210 of the Public Utility Regulatory Policies Act of 1978 (Public Law 95-617) is amended—

(1) by inserting ", and to encourage geothermal small power production facilities of not more than 80 megawatts capacity," after "to encourage cogeneration and small power production" in the first sentence of subsection (a);

(2) by striking out "qualifying cogeneration facilities" in subsection (e)(1) and inserting in lieu thereof "geothermal small power production facilities of not more than 80 megawatts capacity, qualifying cogeneration facilities,"; and

(3) by inserting ", or 80 megawatts for a qualifying small power production facility using geothermal energy as the primary energy source," after "30 megawatts" in subsection (e)(2).

REGULATIONS

30 USC 1542.

SEC. 644. All regulations made with respect to this subtitle shall be promulgated no later than six months after the date of the enactment of this Act.

Acid Precipitation Act of 1980.

TITLE VII—ACID PRECIPITATION PROGRAM AND CARBON DIOXIDE STUDY

SUBTITLE A—ACID PRECIPITATION

SHORT TITLE

42 USC 8901 note.

SEC. 701. This title may be cited as the "Acid Precipitation Act of 1980".

STATEMENT OF FINDINGS AND PURPOSE

42 USC 8901.

SEC. 702. (a) The Congress finds and declares that acid precipitation resulting from other than natural sources—

(1) could contribute to the increasing pollution of natural and man-made water systems;

(2) could adversely affect agricultural and forest crops;

(3) could adversely affect fish and wildlife and natural ecosystems generally;

(4) could contribute to corrosion of metals, wood, paint, and masonry used in construction and ornamentation of buildings and public monuments;

(5) could adversely affect public health and welfare; and

(6) could affect areas distant from sources and thus involve issues of national and international policy.

(b) The Congress declares that it is the purpose of this subtitle—

(1) to identify the causes and sources of acid precipitation;

(2) to evaluate the environmental, social, and economic effects of acid precipitation; and

(3) based on the results of the research program established by this subtitle and to the extent consistent with existing law, to take action to the extent necessary and practicable (A) to limit or eliminate the identified emissions which are sources of acid precipitation, and (B) to remedy or otherwise ameliorate the harmful effects which may result from acid precipitation.

"Acid precipitation."

(c) For purposes of this subtitle the term "acid precipitation" means the wet or dry deposition from the atmosphere of acid chemical compounds.

INTERAGENCY TASK FORCE; COMPREHENSIVE PROGRAM

Acid Precipitation Task Force. 42 USC 8902.

SEC. 703. (a) There is hereby established a comprehensive ten-year program to carry out the provisions of this subtitle; and to implement this program there shall be formed an Acid Precipitation Task Force (hereafter in this subtitle referred to as the "Task Force"), of which the Secretary of Agriculture, the Administrator of the Environmental Protection Agency, and the Administrator of the National Oceanic and Atmospheric Administration shall be joint chairmen. The remaining membership of the Task Force shall consist of—

(1) one representative each from the Department of the Interior, the Department of Health and Human Services, the Department of Commerce, the Department of Energy, the Department of State, the National Aeronautics and Space Administration, the Council on Environmental Quality, the National Science Foundation, and the Tennessee Valley Authority;

(2) the director of the Argonne National Laboratory, the director of the Brookhaven National Laboratory, the director of the Oak Ridge National Laboratory, and the director of the Pacific Northwest National Laboratory; and

(3) four additional members to be appointed by the President.

Research management consortium.

(b) The four National Laboratories (referred to in subsection (a)(2)) shall constitute a research management consortium having the responsibilities described in section 704(b)(13) as well as the general responsibilities required by their representation on the Task Force. In carrying out these responsibilities the consortium shall report to, and act pursuant to direction from, the joint chairmen of the Task Force.

Director.

(c) The Administrator of the National Oceanic and Atmospheric Administration shall serve as the director of the research program established by this subtitle.

COMPREHENSIVE RESEARCH PLAN

42 USC 8903.

SEC. 704. (a) The Task Force shall prepare a comprehensive research plan for the ten-year program (hereafter in this subtitle referred to as the "comprehensive plan"), setting forth a coordinated program (1) to identify the causes and effects of acid precipitation and (2) to identify actions to limit or ameliorate the harmful effects of acid precipitation.

(b) The comprehensive plan shall include programs for—

(1) identifying the sources of atmospheric emissions contributing to acid precipitation;

(2) establishing and operating a nationwide long-term monitoring network to detect and measure levels of acid precipitation;

(3) research in atmospheric physics and chemistry to facilitate understanding of the processes by which atmospheric emissions are transformed into acid precipitation;

(4) development and application of atmospheric transport models to enable prediction of long-range transport of substances causing acid precipitation;

(5) defining geographic areas of impact through deposition monitoring, identification of sensitive areas, and identification of areas at risk;

(6) broadening of impact data bases through collection of existing data on water and soil chemistry and through temporal trend analysis;

(7) development of dose-response functions with respect to soils, soil organisms, aquatic and amphibious organisms, crop plants, and forest plants;

(8) establishing and carrying out system studies with respect to plant physiology, aquatic ecosystems, soil chemistry systems, soil microbial systems, and forest ecosystems;

(9) economic assessments of (A) the environmental impacts caused by acid precipitation on crops, forests, fisheries, and recreational and aesthetic resources and structures, and (B) alternative technologies to remedy or otherwise ameliorate the harmful effects which may result from acid precipitation;

(10) documenting all current Federal activities related to research on acid precipitation and ensuring that such activities are coordinated in ways that prevent needless duplication and waste of financial and technical resources;

(11) effecting cooperation in acid precipitation research and development programs, ongoing and planned, with the affected and contributing States and with other sovereign nations having a commonality of interest;

(12) subject to subsection (f)(1), management by the Task Force of financial resources committed to Federal acid precipitation research and development;

(13) subject to subsection (f)(2), management of the technical aspects of Federal acid precipitation research and development programs, including but not limited to (A) the planning and management of research and development programs and projects, (B) the selection of contractors and grantees to carry out such programs and projects, and (C) the establishment of peer review procedures to assure the quality of research and development programs and their products; and

(14) analyzing the information available regarding acid precipitation in order to formulate and present periodic recommendations to the Congress and the appropriate agencies about actions to be taken by these bodies to alleviate acid precipitation and its effects.

Submittal to Congress; public review.

(c) The comprehensive plan—

(1) shall be submitted in draft form to the Congress, and for public review, within six months after the date of the enactment of this Act;

(2) shall be available for public comment for a period of sixty days after its submission in draft form under paragraph (1);

(3) shall be submitted in final form, incorporating such needed revisions as arise from comments received during the review

period, to the President and the Congress within forty-five days after the close of the period allowed for comments on the draft comprehensive plan under paragraph (2); and

(4) shall constitute the basis on which requests for authorizations and appropriations are to be made for the nine fiscal years following the fiscal year in which the comprehensive plan is submitted in final form under paragraph (3).

(d) The Task Force shall convene as necessary, but no less than twice during each fiscal year of the ten-year period covered by the comprehensive plan.

(e) The Task Force shall submit to the President and the Congress by January 15 of each year an annual report which shall detail the progress of the research program under this subtitle and which shall contain such recommendations as are developed under subsection (b)(14). Annual report to President and Congress.

(f)(1) Subsection (b)(12) shall not be construed as modifying, or as authorizing the Task Force or the comprehensive plan to modify, any provision of an appropriation Act (or any other provision of law relating to the use of appropriated funds) which specifies (A) the department or agency to which funds are appropriated, or (B) the obligations of such department or agency with respect to the use of such funds.

(2) Subsection (b)(13) shall not be construed as modifying, or as authorizing the Task Force or the comprehensive plan to modify, any provision of law (relating to or involving a department or agency) which specifies (A) procurement practices for the selection, award, or management of contracts or grants by such department or agency, or (B) program activities, limitations, obligations, or responsibilities of such department or agency.

IMPLEMENTATION OF COMPREHENSIVE PLAN

SEC. 705. (a) The comprehensive plan shall be carried out during the nine fiscal years following the fiscal year in which the comprehensive plan is submitted in its final form under section 704(c)(3); and— 42 USC 8904.

(1) shall be carried out in accord with, and meet the program objectives specified in, paragraphs (1) through (11) of section 704(b);

(2) shall be managed in accord with paragraphs (12) through (14) of such section; and

(3) shall be funded by annual appropriations, subject to annual authorizations which shall be made for each fiscal year of the program (as provided in section 706) after the submission of the Task Force progress report which under section 704(e) is required to be submitted by January 15 of the calendar year in which such fiscal year begins.

(b) Nothing in this subtitle shall be deemed to grant any new regulatory authority or to limit, expand, or otherwise modify any regulatory authority under existing law, or to establish new criteria, standards, or requirements for regulation under existing law.

AUTHORIZATION OF APPROPRIATIONS

SEC. 706. (a) For the purpose of establishing the Task Force and developing the comprehensive plan under section 704 there is authorized to be appropriated to the National Oceanic and Atmospheric 42 USC 8905.

Administration for fiscal year 1981 the sum of $5,000,000, to remain available until expended.

(b) Authorizations of appropriations for the nine fiscal years following the fiscal year in which the comprehensive plan is submitted in final form under section 704(c)(3), for purposes of carrying out the comprehensive ten-year program established by section 703(a) and implementing the comprehensive plan under sections 704 and 705, shall be provided on an annual basis in authorization Acts hereafter enacted; but the total sum of dollars authorized for such purposes for such nine fiscal years shall not exceed $45,000,000 except as may be specifically provided by reference to this paragraph in the authorization Acts involved.

Subtitle B—Carbon Dioxide

Study

42 USC 8911.

Sec. 711. (a)(1) The Director of the Office of Science and Technology Policy shall enter into an agreement with the National Academy of Sciences to carry out a comprehensive study of the projected impact, on the level of carbon dioxide in the atmosphere, of fossil fuel combustion, coal-conversion and related synthetic fuels activities authorized in this Act, and other sources. Such study should also include an assessment of the economic, physical, climatic, and social effects of such impacts. In conducting such study the Office and the Academy are encouraged to work with domestic and foreign governmental and non-governmental entities, and international entities, so as to develop an international, worldwide assessment of the problems involved and to suggest such original research on any aspect of such problems as the Academy deems necessary.

Report to Congress.

(2) The President shall report to the Congress within six months after the date of the enactment of this Act regarding the status of the Office's negotiations to implement the study required under this section.

Results, report to Congress.

(b) A report including the major findings and recommendations resulting from the study required under this section shall be submitted to the Congress by the Office and the Academy not later than three years after the date of the enactment of this Act. The Academy contribution to such report shall not be subject to any prior clearance or review, nor shall any prior clearance or conditions be imposed on the Academy as part of the agreement made by the Office with the Academy under this section. Such report shall in any event include recommendations regarding—

Recommendations.

(1) how a long-term program of domestic and international research, monitoring, modeling, and assessment of the causes and effects of varying levels of atmospheric carbon dioxide should be structured, including comments by the Office on the interagency requirements of such a program and comments by the Secretary of State on the international agreements required to carry out such a program;

(2) how the United States can best play a role in the development of such a long-term program on an international basis;

(3) what domestic resources should be made available to such a program;

(4) how the ongoing United States Government carbon dioxide assessment program should be modified so as to be of increased

utility in providing information and recommendations of the highest possible value to government policy makers; and

(5) the need for periodic reports to the Congress in conjunction with any long-term program the Office and the Academy may recommend under this section.

(c) The Secretary of Energy, the Secretary of Commerce, the Administrator of the Environmental Protection Agency, and the Director of the National Science Foundation shall furnish to the Office or the Academy upon request any information which the Office or the Academy determines to be necessary for purposes of conducting the study required by this section.

(d) The Office shall provide a separate assessment of the interagency requirements to implement a comprehensive program of the type described in the third sentence of subsection (b).

AUTHORIZATION OF APPROPRIATIONS

SEC. 712. For the expenses of carrying out the carbon dioxide study authorized by section 711 (as determined by the Office of Science and Technology Policy) there are authorized to be appropriated such sums, not exceeding $3,000,000 in the aggregate, as may be necessary. At least 80 percent of any amounts appropriated pursuant to the preceding sentence shall be provided to the National Academy of Sciences. 42 USC 8912.

TITLE VIII—STRATEGIC PETROLEUM RESERVE

PRESIDENT REQUIRED TO RESUME FILL OPERATIONS

SEC. 801. (a) Section 160 of the Energy Policy and Conservation Act (42 U.S.C. 6240) is amended by adding at the end thereof the following new subsection:

"(c)(1) Notwithstanding subsection (b) and the requirements of section 159, the President shall immediately undertake, and thereafter continue (subject to paragraph (2)), crude oil acquisition, transportation, and injection activities at a level sufficient to assure that crude oil in storage in the Strategic Petroleum Reserve will be increased at an average rate of at least 100,000 barrels per day for fiscal year 1981 and for each fiscal year thereafter.

"(2) The requirement in paragraph (1) shall cease to apply when storage in the Strategic Petroleum Reserve equals or exceeds the final storage level set forth in the Strategic Petroleum Reserve Plan.".

(b) The amendment made by subsection (a) shall take effect on the date of the enactment of this Act, and shall apply with respect to the entirety of fiscal year 1981 (and each fiscal year thereafter). 42 USC 6240 note.

USE OF CRUDE OIL FROM ELK HILLS RESERVE

SEC. 802. (a) Section 160 of such Act (42 U.S.C. 6240), as amended by section 801, is further amended by adding at the end thereof the following:

"(d)(1) Notwithstanding any other provision of law, no portion of the United States share of crude oil in Naval Petroleum Reserve Numbered 1 (Elk Hills) may be sold or otherwise disposed of other than to the Strategic Petroleum Reserve (either directly or by exchange) during any fiscal year, except as provided in paragraph (2), unless—

"(A) the quantity of crude oil in storage within the Strategic Petroleum Reserve is at least 500,000,000 barrels; or

"(B) acquisition, transportation, and injection activities for the Reserve are being undertaken for that fiscal year at a level sufficient to assure that crude oil in storage in the Strategic Petroleum Reserve will be increased at an average rate of at least 100,000 barrels per day for that fiscal year.

"(2)(A) The requirements of paragraph (1) shall not apply to the United States share of crude oil in the Naval Petroleum Reserve Numbered 1 which is—

"(i) sold to small refiners under section 7430(d) of title 10, United States Code;

"(ii) produced, consistent with sound engineering practices, for the purpose of preventing a reduction in the total quantity of crude oil available for ultimate recovery from the Naval Petroleum Reserve Numbered 1, and the amount produced is the minimum necessary to prevent such reduction; or

"(iii) produced for national defense purposes under section 7422(b)(2) of title 10, United States Code, pursuant to an authorization of Congress under that section during the preceding 9-month period.".

Effective date. 42 USC 6240 note.

(b) The amendments made by subsection (a) shall take effect October 1, 1980.

SUSPENSION DURING EMERGENCY SITUATIONS

SEC. 803. Section 160 of the Energy Policy and Conservation Act (42 U.S.C. 6240), as amended by sections 801 and 802, is further amended by adding at the end thereof the following new subsection:

"(e)(1) The provisions of subsections (c) and (d) shall not apply (A) if there is in effect an order of the President directing drawdown and distribution pursuant to section 161 or (B) if—

"(i) the President has found in his discretion that compliance with such provisions significantly impairs the ability of the United States to respond to a severe energy supply interruption or to meet the obligations of the United States under the international energy program;

"(ii) the President has transmitted such finding to the Congress in accordance with section 552, together with a request for a suspension of such provisions; and

42 USC 6422.

"(iii) such request has been approved by a resolution by each House of the Congress within 60 days of continuous session after the date of its transmittal, in accordance with the provisions of section 552 applicable to energy conservation contingency plans.

"(2) The suspension of application of subsections (c) and (d) under paragraph (1)(B) shall take effect on the date on which a resolution approving that request is adopted by the second House to have so approved that request and shall terminate 9 months thereafter, or such earlier date as is specified in the request transmitted under paragraph (1)(B)(ii).

"(3) In applying the provisions of section 552 for purposes of paragraph (1)(B)—

"(A) subsections (d)(2) and (d)(7) shall not apply; and

"(B) the references to any energy conservation contingency plan shall be considered to refer to a request under this subsection.

"(4) The period of any suspension of subsections (c) and (d) under this subsection, and the quantity of any crude oil involved, shall be disregarded in applying the provisions of such subsections for periods following such suspension.".

NAVAL PETROLEUM RESERVES

SEC. 804. (a) Section 7430(b) of title 10, United States Code, is amended by striking out "for periods of not more than one year," and inserting at the end thereof the following: "Each sale of the United States share of petroleum shall be for periods of not more than one year, except that a sale of natural gas may be made for a period of more than one year.".

(b) Section 7430(k) of title 10, United States Code, is amended to read as follows:

"(k)(1) With respect to all or any part of the United States share of petroleum produced from the naval petroleum reserves, the President may direct that the Secretary—

"(A) place that petroleum in the Strategic Petroleum Reserve as authorized by sections 151 through 166 of the Energy Policy and Conservation Act (42 U.S.C. 6231–6246); or

"(B) exchange, directly or indirectly, that petroleum for other petroleum to be placed in the Strategic Petroleum Reserve under such terms and conditions and by such methods as the Secretary determines to be appropriate, without regard to otherwise applicable Federal procurement statutes and regulations.

"(2) The requirements of section 159 of the Energy Policy and Conservation Act (42 U.S.C. 6239) do not apply to actions taken under this subsection.".

(c) Section 7430 of title 10, United States Code, is amended by adding at the end thereof the following new subsection:

"(l)(1) Notwithstanding any other provision of this chapter (but subject to paragraph (2)), during any period in which the production of petroleum is authorized from Naval Petroleum Reserves Numbered 1, 2, or 3, the Secretary, at the request of the Secretary of Defense, may provide any portion of the United States share of petroleum so produced to the Department of Defense for its use, exchange, or sale in order to meet petroleum product requirements of the Department of Defense.

"(2) Petroleum may be provided to the Department of Defense under paragraph (1) either directly or by such exchange as the Secretary deems appropriate. Appropriate reimbursement reasonably reflecting the fair market value shall be provided by the Secretary of Defense for petroleum provided under this subsection.

"(3) Any exchange made pursuant to this subsection may be made without regard to otherwise applicable Federal procurement statutes and regulations.

"(4) Paragraph (1) does not apply to any petroleum set aside for small refiners under subsection (d) of this section or placed in the Strategic Petroleum Reserve under subsection (k) of this section.".

ALLOCATION TO STRATEGIC PETROLEUM RESERVE OF LOWER TIER CRUDE OIL; USE OF FEDERAL ROYALTY OIL

SEC. 805. (a)(1) In order to carry out the requirement of the amendment made by section 801 of this Act and to carry out the policies and objectives established in sections 151 and 160(b)(1) of the

42 USC 6240 note.

Energy Policy and Conservation Act (42 U.S.C. 6231 and 6240(b)(1)), the President shall, within 60 days after the date of the enactment of this Act, promulgate and make effective an amendment to the provisions of the regulation under section 4(a) of the Emergency Petroleum Allocation Act of 1973 relating to entitlements, which has the same effect as allocating lower tier crude oil to the Government for storage in the Strategic Petroleum Reserve. Such amendment shall not apply with respect to crude oil purchased after September 30, 1981, for storage in such reserve.

15 USC 753.

(2) The authority provided by this subsection shall be in addition to, and shall not be deemed to limit, any other authority available to the President under the Emergency Petroleum Allocation Act of 1973 or any other law.

(3) The President or his delegate may promulgate and make effective rules or orders to implement this subsection without regard to the requirements of section 501 of the Department of Energy Organization Act or any other law or regulation specifying procedural requirements.

42 USC 7191.

(b) In addition to the requirement under subsection (a), the President may direct that—

(1) all or any portion of Federal royalty oil be placed in storage in the Reserve,

(2) all or any portion of Federal royalty oil be exchanged, directly or indirectly, for other crude oil for storage in the Reserve, or

(3) all or any portion of the proceeds from the sales of Federal royalty oil be transferred to the account established under subsection (c) for use for the purchase of crude oil for the Reserve, as provided in subsection (c).

(c)(1) Any proceeds—

(A) from the sale of entitlements received by the Government under the amendment to the regulation made under subsection (a), and

(B) to the extent provided in subsection (b), from the sale of Federal royalty oil,

shall be deposited in a special account which the Secretary of the Treasury shall establish on the books of the Treasury of the United States.

(2)(A) Subject to the provisions of any Act enacted pursuant to section 660 of the Department of Energy Organization Act, such account shall be available (except as provided in subparagraph (B)) for use by the Secretary of Energy, without fiscal year limitation, for the purchase of crude oil for the Strategic Petroleum Reserve, to the extent provided in advance in appropriation Acts.

42 USC 7270.

(B) Amounts in such account attributable to the proceeds from the sale of entitlements under the amendment to the regulation under subsection (a) are hereby appropriated for fiscal year 1981 for acquisition of crude oil for the Strategic Petroleum Reserve pursuant to subsection (a).

Definitions.

(d) For purposes of this section—

(1) the terms "entitlements", "crude oil", and "allocation" shall have the same meaning as those terms have as used in the Emergency Petroleum Allocation Act of 1973 (and the regulation thereunder);

15 USC 751 note.

(2) the term "lower tier crude oil" means crude oil which is subject to the price ceiling established under section 212.73 of title 10, Code of Federal Regulations;

(3) the term "Federal royalty oil" means crude oil which the United States is entitled to receive in kind as royalties from production on Federal land (as such term is defined in section 3(10) of the Energy Policy and Conservation Act (42 U.S.C. 6202(10)); and

(4) the term "proceeds from the sale of Federal royalty oil" means that portion of the amounts deposited into the Treasury of the United States from the sale of Federal royalty oil which is not otherwise required to be disposed of (other than as miscellaneous receipts) pursuant to (A) the provisions of section 35 of the Act of February 25, 1920, as amended (41 Stat. 450; 30 U.S.C. 191), commonly known as the Mineral Lands Leasing Act, or (B) the provisions of any other law.

Approved June 30, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 96-165 accompanying H.R. 3930 (Comm. on Banking, Finance, and Urban Affairs) and No. 96-1104 (Comm. of Conference).

SENATE REPORTS: No. 96-166 (Comm. on Banking, Housing, and Urban Affairs), No. 96-387 (Comm. on Energy and Natural Resources and Comm. on Banking, Housing, and Urban Affairs), and No. 96-824 (Comm. of Conference).

CONGRESSIONAL RECORD:

Vol. 125 (1979): June 20, considered and passed Senate.
June 26, H.R. 3930 considered and passed House; passage vacated and S. 932, amended, passed in lieu.
Nov. 5, 7, 8, Senate concurred in House amendments with amendments.

Vol. 126 (1980): June 19, Senate agreed to conference report.
June 26, House agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:

Vol. 16, No. 27 (1980): June 30, Presidential statement.

Public Law 96-295
96th Congress

An Act

June 30, 1980
[S. 562]

To authorize appropriations to the Nuclear Regulatory Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and section 305 of the Energy Reorganization Act of 1974, as amended, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Nuclear Regulatory Commission. Appropriation authorization.

TITLE I—AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 1980

SEC. 101. (a) There is hereby authorized to be appropriated to the Nuclear Regulatory Commission in accordance with the provisions of section 261 of the Atomic Energy Act of 1954 (42 U.S.C. 2017) and section 305 of the Energy Reorganization Act of 1974 (42 U.S.C. 5875), for the fiscal year 1980, the sum of $426,821,000, to remain available until expended. Of such total amount authorized to be appropriated:

(1) not more than $66,510,000, may be used for "Nuclear Reactor Regulation", of which an amount not to exceed $1,000,000 is authorized to accelerate the effort in gas-cooled thermal reactor preapplication review;

(2) not more than $42,440,000, may be used for "Inspection and Enforcement"; of the total amount appropriated for this purpose, $4,684,000 shall be available for support for 146 additional inspectors for the Resident Inspector program;

(3) not more than $15,953,000, may be used for "Standards Development";

(4) not more than $32,380,000, may be used for "Nuclear Material Safety and Safeguards"; of the total amount appropriated for this purpose—

(A) not less than $60,000 shall be available only for the employment by the Commission of two qualified individuals to be assigned by the Commission for implementation of the United States International Atomic Energy Agency Safeguards Treaty, following ratification of such treaty by the United States Senate;

(B) not less than $180,000 and six additional positions shall be included in the Division of Safeguards for the regulatory improvement of material control and accounting safeguards and the development of improved regulatory requirements for safeguarding the transportation of spent fuel; and

(C) not less than $9,675,000 shall be available for Nuclear Waste Disposal and Management activities, including support for five additional positions in the Division of Waste Management for implementation of the Uranium Mill Tailings Radiation Control Act of 1978 (Public Law 95-604; 42 U.S.C. 7901 and following);

(5) not more than $213,005,000, may be used for "Nuclear Regulatory Research", of which—

(A) an amount not to exceed $3,700,000 shall be available to accelerate the effort in gas-cooled thermal reactor safety research;

(B) an amount not to exceed $4,400,000 shall be available for implementation of the Improved Safety Systems Research plan required by section 205(f) of the Energy Reorganization Act of 1974, as amended; and 42 USC 5845.

(C) an amount not to exceed $6,700,000 shall be available for Nuclear Waste Research activities;

(6) not more than $18,125,000, may be used for "Program Technical Support"; of the total amount appropriated for this purpose, $4,238,000 shall be available to the Office of State Programs, including support for eight additional positions for training and assistance to State and local governments in radiological emergency response planning and operations and for review of State plans; and

(7) not more than $38,408,000 may be used for "Program Direction and Administration"; of the total amount appropriated for this purpose, $400,000 shall be available for support of eight additional positions in the Division of Contracts, Office of Administration.

(b) No amount appropriated to the Nuclear Regulatory Commission pursuant to subsection (a) may be used for any purpose in excess of the amount expressly authorized to be appropriated therefore by paragraphs (1) through (7) of such subsection if such excess amount is greater than $500,000, nor may the amount available from any appropriation for any purpose specified in such paragraphs be reduced by more than $500,000, unless—

(1) a period of 45 calendar days (not including any day in which either House of Congress is not in session because of an adjournment of more than 3 calendar days to a day certain or an adjournment sine die) has passed after the receipt by the Committee on Interstate and Foreign Commerce and the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Environment and Public Works of the Senate of notice given by the Commission containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action, or

(2) each such Committee has, before the expiration of such period, transmitted to the Commission a written notification that there is no objection to the proposed action.

(c) No amount authorized to be appropriated by this Act may be used by the Nuclear Regulatory Commission to enter into any contract providing funds in excess of $50,000 encompassing research, study, or technical assistance on domestic safeguards matters except as directed by the Commission, by majority vote, following receipt by the Commission of a recommendation from the Executive Director for Operations supporting the need for such contract.

(d) No amount authorized to be appropriated by this Act may be used by the Nuclear Regulatory Commission to—

(1) place any new work or substantial modification to existing work with another Federal agency, or

(2) contract for research services or modify such contract

in an amount greater than $500,000, unless such placement of work, contract or modification is approved by a Senior Contract Review Board, to be appointed by the Commission within sixty days of the

date of enactment of this Act. Such Board shall be accountable to and under the direction of the Commission. If the amount of such placement, contract, or modification is $1,000,000 or more, approval thereof shall be by majority vote of the Commission. Prior to affording any approval in accordance with the subsection, the reviewing body designated hereunder shall determine that the placement, contract, or modification contains a detailed description of work to be performed, and that alternative methods of obtaining performance including competitive procurement have been considered.

SEC. 102. During the fiscal year 1980, moneys received by the Nuclear Regulatory Commission for the cooperative nuclear research programs may be retained and used for salaries and expenses associated with those programs, notwithstanding the provisions of section 3617 of the Revised Statutes (31 U.S.C. 484). Such moneys shall remain available until expended.

Transfers of sums.

SEC. 103. During the fiscal year 1980, transfers of sums from salaries and expenses of the Nuclear Regulatory Commission may be made to other agencies of the United States Government for the performance of the work for which the appropriation is made, and in such cases the sums so transferred may be merged with the appropriation to which transferred.

SEC. 104. Notwithstanding any other provision of this Act, no authority to make payments hereunder shall be effective except to such extent or in such amounts as are provided in advance in appropriation Acts.

SEC. 105. No amount authorized to be appropriated pursuant to this Act may be used to grant any license, permit or other authorization, or permission to any person for the transportation to, or the interim, long-term, or permanent storage of, spent nuclear fuel or high-level radioactive waste on any territory or insular possession of the United States or the Trust Territory of the Pacific Islands unless—

(1) the President submits to the Congress a report on the transfer at least 30 days before such transfer and on a day during which—

(A) both Houses of the Congress are in session, or

(B) either or both Houses are not in session because of an adjournment of three days or less to a day certain; or

(2) the President determines that an emergency situation exists with respect to such transfer and that it is in the national interest to make such transfer and the President notifies the Speaker of the House of Representatives and the President of the Senate as soon as possible of such transfer.

The provisions of this section shall not apply to the cleanup and rehabilitation of Bikini and Eniwetok Atolls.

SEC. 106. Of the amounts authorized to be appropriated pursuant to this Act, the Nuclear Regulatory Commission is authorized and directed to use such sums as may be necessary to develop a plan for agency response to accidents at a utilization facility licensed under section 103 or section 104(b) of the Atomic Energy Act of 1954. The plan required to be developed by this section shall be forwarded to the Congress on or before September 30, 1980.

42 USC 2133, 2134.

SEC. 107. No funds appropriated pursuant to this Act may be used for the purpose of providing for the licensing or approval of any disposal of nuclear wastes in the oceans.

Regulations.

SEC. 108. (a) Of the amounts authorized to be appropriated pursuant to this Act, the Nuclear Regulatory Commission is authorized and directed to use such sums as may be necessary to develop and

promulgate regulations establishing demographic requirements for the siting of utilization facilities. Such regulations shall be promulgated by the Commission after notice and opportunity for hearing in accordance with section 553 of title 5 of the United States Code. For purposes of this section, the term "utilization facility" means a facility licensed under section 103 or 104(b) of the Atomic Energy Act of 1954.

Notice and hearing.

"Utilization facility."

42 USC 2133, 2134.

(b) The regulations promulgated pursuant to this section shall provide that no construction permit may be issued for a utilization facility to which this section applies after the date of such promulgation unless the facility complies with the requirements set forth in such regulations, except that regulations promulgated under this section shall not apply to any facility for which an application for a construction permit was filed on or before October 1, 1979.

(c) The regulations promulgated pursuant to this section shall specify demographic criteria for facility siting, including maximum population density and population distribution for zones surrounding the facility without regard to any design, engineering, or other differences among such facilities.

(d) The regulations promulgated pursuant to this section shall take into account the feasibility of all actions outside the facility which may be necessary to protect public health and safety in the event of any accidental release of radioactive material from the facility which may endanger public health or safety. For purposes of this subsection, the term "accidental release" includes, but is not limited to, each potential accidental release of radioactive material which is required by the Commission to be taken into account for purposes of facility design.

"Accidental release."

(e) The Commission shall provide information and recommendations to State and local land use planning authorities having jurisdiction over the zones established under the regulations promulgated pursuant to this section and over areas beyond the zones which may be affected by a radiological emergency. The information and recommendations provided under this subsection shall be designed to assist such authorities in making State and local land use decisions which may affect emergency planning in relation to utilization facilities.

Information and recommendations.

(f) Nothing in this section shall be construed to provide that the Commission shall have any authority to preempt any State requirement relating to land use or respecting the siting of any utilization facility, except that no State or local land use or facility siting requirement relating to the same aspect of facility siting as a requirement established pursuant to this section shall have any force and effect unless such State or local requirement is identical to, or more stringent than, the requirement promulgated pursuant to this section.

SEC. 109. (a) Funds authorized to be appropriated pursuant to this Act may be used by the Nuclear Regulatory Commission to conduct proceedings, and take other actions, with respect to the issuance of an operating license for a utilization facility only if the Commission determines that—

(1) there exists a State or local emergency preparedness plan which—

(A) provides for responding to accidents at the facility concerned, and

(B) as it applies to the facility concerned only, complies with the Commission's guidelines for such plans, or

(2) in the absence of a plan which satisfies the requirements of paragraph (1), there exists a State, local, or utility plan which provides reasonable assurance that public health and safety is not endangered by operation of the facility concerned.

A determination by the Commission under paragraph (1) may be made only in consultation with the Director of the Federal Emergency Management Agency. If, in any proceeding for the issuance of an operating license for a utilization facility to which this subsection applies, the Commission determines that there exists a reasonable assurance that public health and safety is endangered by operation of the facility, the Commission shall identify the risk to public health and safety and provide the applicant with a detailed statement of the reasons for such determination. For purposes of this section, the term "utilization facility" means a facility required to be licensed under section 103 or 104(b) of the Atomic Energy Act of 1954.

"Utilization facility."

42 USC 2133, 2134.

(b) Of the amounts authorized to be appropriated under section 101(a), such sums as may be necessary shall be used by the Nuclear Regulatory Commission to—

Rules.

(1) establish by rule—

(A) standards for State radiological emergency response plans, developed in consultation with the Director of the Federal Emergency Management Agency, and other appropriate agencies, which provide for the response to a radiological emergency involving any utilization facility,

(B) a requirement that—

(i) the Commission will issue operating licenses for utilization facilities only if the Commission determines that—

(I) there exists a State or local radiological emergency response plan which provides for responding to any radiological emergency at the facility concerned and which complies with the Commission's standards for such plans under subparagraph (A), or

(II) in the absence of a plan which satisfies the requirements of subclause (I), there exists a State, local, or utility plan which provides reasonable assurance that public health and safety is not endangered by operation of the facility concerned, and

(ii) any determination by the Commission under subclause (I) may be made only in consultation with the Director of the Federal Emergency Management Agency and other appropriate agencies, and

(C) a mechanism to encourage and assist States to comply as expeditiously as practicable with the standards promulgated under subparagraph (A) of this paragraph,

Review of plans.

(2) review all plans and other preparations respecting such an emergency which have been made by each State in which there is located a utilization facility or in which construction of such a facility has been commenced and by each State which may be affected (as determined by the Commission) by any such emergency,

Report to congressional committees.

(3) assess the adequacy of the plans and other preparations reviewed under paragraph (2) and the ability of the States involved to carry out emergency evacuations during an emergency referred to in paragraph (1) and submit a report of such

assessment to the appropriate committees of the Congress within 6 months of the date of the enactment of this Act,

(4) identify which, if any, of the States described in paragraph (2) do not have adequate plans and preparations for such an emergency and notify the Governor and other appropriate authorities in each such State of the respects in which such plans and preparations, if any, do not conform to the guidelines promulgated under paragraph (1), and

(5) submit a report to Congress containing (A) the results of its actions under the preceding paragraphs and (B) its recommendations respecting any additional Federal statutory authority which the Commission deems necessary to provide that adequate plans and preparations for such radiological emergencies are in effect for each State described in paragraph (2).

(c) In carrying out its review and assessment under subsection (b)(2) and (3) and in submitting its report under subsection (a)(5), the Commission shall include a review and assessment, with respect to each utilization facility and each site for which a construction permit has been issued for such a facility, of the emergency response capability of State and local authorities and of the owner or operator (or proposed owner or operator) of such facility. Such review and assessment shall include a determination by the Commission of the maximum zone in the vicinity of each such facility for which evacuation of individuals is feasible at various different times corresponding to the representative warning times for various different types of accidents.

SEC. 110. (a) Of the amounts authorized to be appropriated pursuant to section 101(a), such sums as may be necessary shall be used by the Nuclear Regulatory Commission to develop, submit to the Congress, and implement, as soon as practicable after notice and opportunity for public comment, a comprehensive plan for the systematic safety evaluation of all currently operating utilization facilities required to be licensed under section 103 or section 104(b) of the Atomic Energy Act of 1954. 42 USC 2133, 2134.

(b) The plan referred to in subsection (a) shall include—

(1) the identification of each current rule and regulation compliance with which the Commission specifically determines to be of particular significance to the protection of the public health and safety;

(2) a determination by the Commission of the extent to which each operating facility complies with each rule and regulation identified under paragraph (1) of this subsection, including an indication of where such compliance was achieved by use of Division 1 regulatory guides and staff technical positions and where compliance was achieved by equivalent means;

(3) a list of the generic safety issues set forth in NUREG 0410 (including categories A, B, C, and D) for which technical solutions have been developed;

(4) a determination by the Commission of which technical solutions for generic safety issues identified in paragraph (3) of this subsection should be incorporated into the Commission's rules and regulations; and

(5) a schedule for developing a technical solution to those generic safety issues listed in NUREG 0410 which have not yet been technically resolved.

(c) Not later than 90 days from the date of enactment of this Act, the Commission shall report to the Congress on the status of efforts to carry out subsection (a).

TITLE II—AMENDMENTS TO THE ATOMIC ENERGY ACT OF 1954

42 USC 2133.

SEC. 201. (a) Section 103 of the Atomic Energy Act of 1954 is amended by adding at the end thereof the following new subsection:

"f. Each license issued for a utilization facility under this section or section 104 b. shall require as a condition thereof that in case of any accident which could result in an unplanned release of quantities of fission products in excess of allowable limits for normal operation established by the Commission, the licensee shall immediately so notify the Commission. Violation of the condition prescribed by this subsection may, in the Commission's discretion, constitute grounds for license revocation. In accordance with section 187 of this Act, the Commission shall promptly amend each license for a utilization facility issued under this section or section 104 b. which is in effect on the date of enactment of this subsection to include the provisions required under this subsection.".

42 USC 2134.

42 USC 2237.

SEC. 202. (a) Chapter 18 of the Atomic Energy Act of 1954 is amended by adding the following new section at the end thereof:

42 USC 2283.

"SEC. 235. PROTECTION OF NUCLEAR INSPECTORS.—

"a. Whoever kills any person who performs any inspections which—

"(1) are related to any activity or facility licensed by the Commission, and

"(2) are carried out to satisfy requirements under this Act or under any other Federal law governing the safety of utilization facilities required to be licensed under section 103 or 104 b., or the safety of radioactive materials,

42 USC 2133, 2134.

shall be punished as provided under sections 1111 and 1112 of title 18, United States Code. The preceding sentence shall be applicable only if such person is killed while engaged in the performance of such inspection duties or on account of the performance of such duties.

"b. Whoever forcibly assaults, resists, opposes, impedes, intimidates, or interferes with any person who performs inspections as described under subsection a. of this section, while such person is engaged in such inspection duties or on account of the performance of such duties, shall be punished as provided under section 111 of title 18, United States Code.".

(b) The table of contents for chapter 18 of the Atomic Energy Act of 1954 is amended by adding the following new item at the end thereof:

"Sec. 235. Protection of nuclear inspectors.".

42 USC 2273.

SEC. 203. Section 223 of the Atomic Energy Act of 1954 is amended by striking out "Whoever" and substituting:

"a. Whoever"

and by adding at the end thereof the following:

"b. Any individual director, officer, or employee of a firm constructing, or supplying the components of any utilization facility required to be licensed under section 103 or 104 b. of this Act who by act or omission, in connection with such construction or supply, knowingly and willfully violates or causes to be violated, any section of this Act, any rule, regulation, or order issued thereunder, or any license condition, which violation results, or if undetected could have resulted, in a significant impairment of a basic component of such a

facility shall, upon conviction, be subject to a fine of not more than $25,000 for each day of violation, or to imprisonment not to exceed two years, or both. If the conviction is for a violation committed after a first conviction under this subsection, punishment shall be a fine of not more than $50,000 per day of violation, or imprisonment for not more than two years, or both. For the purposes of this subsection, the term 'basic component' means a facility structure, system, component or part thereof necessary to assure— "Basic component."

"(1) the integrity of the reactor coolant pressure boundary,

"(2) the capability to shut-down the facility and maintain it in a safe shut-down condition, or

"(3) the capability to prevent or mitigate the consequences of accidents which could result in an unplanned offsite release of quantities of fission products in excess of the limits established by the Commission.

The provisions of this subsection shall be prominently posted at each site where a utilization facility required to be licensed under section 103 or 104 b. of this Act is under construction and on the premises of each plant where components for such a facility are fabricated.". 42 USC 2133, 2134.

SEC. 204. (a) The Atomic Energy Act of 1954 is amended by adding the following new section after section 234:

"SEC. 236. SABOTAGE OF NUCLEAR FACILITIES OR FUEL.—Any person who intentionally and willfully destroys or causes physical damage to, or who intentionally and willfully attempts to destroy or cause physical damage to— 42 USC 2284.

"(1) any production facility or utilization facility licensed under this Act,

"(2) any nuclear waste storage facility licensed under this Act,

"(3) any nuclear fuel for such a utilization facility, or any spent nuclear fuel from such a facility,

shall be fined not more than $10,000 or imprisoned for not more than ten years, or both.".

(b) The table of contents for such Act is amended by inserting the following new item after the item relating to section 234:

"Sec. 236. Sabotage of nuclear facilities or fuel.".

SEC. 205. Section 274 j. of the Atomic Energy Act of 1954 is amended by inserting "(1)" after "j." and by adding the following at the end thereof: 42 USC 2021.

"(2) The Commission, upon its own motion or upon request of the Governor of any State, may, after notifying the Governor, temporarily suspend all or part of its agreement with the State without notice or hearing if, in the judgment of the Commission:

"(A) an emergency situation exists with respect to any material covered by such an agreement creating danger which requires immediate action to protect the health or safety of persons either within or outside the State, and

"(B) the State has failed to take steps necessary to contain or eliminate the cause of the danger within a reasonable time after the situation arose.

A temporary suspension under this paragraph shall remain in effect only for such time as the emergency situation exists and shall authorize the Commission to exercise its authority only to the extent necessary to contain or eliminate the danger.".

SEC. 206. The first sentence of section 234 a. of the Atomic Energy Act of 1954 is amended by striking all that follows "exceed" the first time it appears and inserting in lieu thereof the following: "$100,000 for each such violation.". 42 USC 2282.

SEC. 207. (a)(1) The Atomic Energy Act of 1954 is amended by inserting the following new section immediately after section 146:

42 USC 2167.

"SEC. 147. SAFEGUARDS INFORMATION.—

Regulations.

"a. In addition to any other authority or requirement regarding protection from disclosure of information, and subject to subsection (b)(3) of section 552 of title 5 of the United States Code, the Commission shall prescribe such regulations, after notice and opportunity for public comment, or issue such orders, as necessary to prohibit the unauthorized disclosure of safeguards information which specifically identifies a licensee's or applicant's detailed—

"(1) control and accounting procedures or security measures (including security plans, procedures, and equipment) for the physical protection of special nuclear material, by whomever possessed, whether in transit or at fixed sites, in quantities determined by the Commission to be significant to the public health and safety or the common defense and security;

"(2) security measures (including security plans, procedures, and equipment) for the physical protection of source material or byproduct material, by whomever possessed, whether in transit or at fixed sites, in quantities determined by the Commission to be significant to the public health and safety or the common defense and security; or

"(3) security measures (including security plans, procedures, and equipment) for the physical protection of and the location of certain plant equipment vital to the safety of production or utilization facilities involving nuclear materials covered by paragraphs (1) and (2)

if the unauthorized disclosure of such information could reasonably be expected to have a significant adverse effect on the health and safety of the public or the common defense and security by significantly increasing the likelihood of theft, diversion, or sabotage of such material or such facility. The Commission shall exercise the authority of this subsection—

"(A) so as to apply the minimum restrictions needed to protect the health and safety of the public or the common defense and security, and

"(B) upon a determination that the unauthorized disclosure of such information could reasonably be expected to have a significant adverse effect on the health and safety of the public or the common defense and security by significantly increasing the likelihood of theft, diversion, or sabotage of such material or such facility.

Nothing in this Act shall authorize the Commission to prohibit the public disclosure of information pertaining to the routes and quantities of shipments of source material, by-product material, high level nuclear waste, or irradiated nuclear reactor fuel. Any person, whether or not a licensee of the Commission, who violates any regulation adopted under this section shall be subject to the civil

42 USC 2282.

monetary penalties of section 234 of this Act. Nothing in this section shall be construed to authorize the withholding of information from the duly authorized committees of the Congress.

42 USC 2273.

"b. For the purposes of section 223 of this Act, any regulations or orders prescribed or issued by the Commission under this section shall also be deemed to be prescribed or issued under section 161 b. of this Act.

"c. Any determination by the Commission concerning the applicability of this section shall be subject to judicial review pursuant to subsection (a)(4)(B) of section 552 of title 5 of the United States Code.

"d. Upon prescribing or issuing any regulation or order under subsection a. of this section, the Commission shall submit to Congress a report that:

"(1) specifically identifies the type of information the Commission intends to protect from disclosure under the regulation or order;

"(2) specifically states the Commission's justification for determining that unauthorized disclosure of the information to be protected from disclosure under the regulation or order could reasonably be expected to have a significant adverse effect on the health and safety of the public or the common defense and security by significantly increasing the likelihood of theft, diversion, or sabotage of such material or such facility, as specified under subsection (a) of this section; and

"(3) provides justification, including proposed alternative regulations or orders, that the regulation or order applies only the minimum restrictions needed to protect the health and safety of the public or the common defense and security.

"e. In addition to the reports required under subsection d. of this section, the Commission shall submit to Congress on a quarterly basis a report detailing the Commission's application during that period of every regulation or order prescribed or issued under this section. In particular, the report shall:

"(1) identify any information protected from disclosure pursuant to such regulation or order;

"(2) specifically state the Commission's justification for determining that unauthorized disclosure of the information protected from disclosure under such regulation or order could reasonably be expected to have a significant adverse effect on the health and safety of the public or the common defense and security by significantly increasing the likelihood of theft, diversion or sabotage of such material or such facility, as specified under subsection a. of this section; and

"(3) provide justification that the Commission has applied such regulation or order so as to protect from disclosure only the minimum amount of information necessary to protect the health and safety of the public or the common defense and security.".

(2) The table of contents for such Act is amended by inserting the following new item after the item relating to section 146:

"Sec. 147. Safeguards information.".

(b) Section 181 of the Atomic Energy Act of 1954 is amended— 42 USC 2231.

(1) by striking out "or defense information" the first time it appears and substituting ", defense information, or safeguards information protected from disclosure under the authority of section 147"; and

(2) by striking out "or defense information" in each other place it appears in such section and substituting ", defense information, or such safeguards information,".

Ante, p. 788.

TITLE III—OTHER PROVISIONS

SEC. 301. (a) The Nuclear Regulatory Commission, within 90 days of enactment of this Act, shall promulgate regulations providing for timely notification to the Governor of any State prior to the transport

Regulations. 42 USC 5841 note.

of nuclear waste, including spent nuclear fuel, to, through, or across the boundaries of such State. Such notification requirement shall not apply to nuclear waste in such quantities and of such types as the Commission specifically determines do not pose a potentially significant hazard to the health and safety of the public.

"State."

(b) As used in this section, the term "State" includes the several States of the Union, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands.

Contract authorization.

SEC. 302. The Nuclear Regulatory Commission is authorized and directed to enter into a contract for an independent review of the Commission's management structure, processes, procedures, and operations. The review shall include an assessment of the effectiveness of all levels of agency management in carrying out the Commission's statutory responsibilities, in developing and implementing policies and programs, and in using the personnel and funding available to it. The contract shall provide for submission of a report of the findings and recommendations of the review to the Commission not later than one year from the date of enactment of this Act, and the Commission shall promptly transmit such report to the Congress.

Report.

42 USC 2016 note.

SEC. 303. The Nuclear Regulatory Commission shall include in its annual report to Congress under section 251 of the Atomic Energy Act of 1954 a statement of—

42 USC 2016.

(1) the direct and indirect costs to the Commission for the issuance of any license or permit and for the inspection of any facility; and

(2) the fees paid to the Commission for the issuance of any license or permit and for the inspection of any facility.

National Contingency Plan, publication.

SEC. 304. On or before September 30, 1980, the President shall prepare and publish a National Contingency Plan to provide for expeditious, efficient, and coordinated action by appropriate Federal agencies to protect the public health and safety in the case of accidents at any utilization facility licensed under section 103 or 104 b. of the Atomic Energy Act of 1954.

42 USC 2133, 2134.

42 USC 5842 note.

SEC. 305. (a) As expeditiously as practicable, the Nuclear Regulatory Commission shall establish a mechanism for instantaneous and uninterrupted verbal communication between each utilization facility licensed to operate under section 103 or section 104 b. of the Atomic Energy Act of 1954 on the date of enactment of this Act, or thereafter, and

(1) Commission headquarters, and

(2) the appropriate Commission regional office.

Study, transmittal to Congress.

(b) Within ninety days after the date of the enactment of this Act, the Commission shall prepare and transmit to the Congress a study of alternate plans for instantaneous and otherwise timely transmission to the Commission of data indicating the status of principal system parameters at utilization facilities licensed to operate under section 103 or section 104 b. of the Atomic Energy Act of 1954. For each alternative, the study shall present procedures for transmitting and analyzing such data and a Commission statement regarding the advantages, disadvantages and desirability.

Investigation and study.

SEC. 306. (a) The Nuclear Regulatory Commission is authorized and directed to undertake a comprehensive investigation and study of the impediments to expeditious and reliable communication among Commission headquarters, the Commission regional office, Commission representatives at the facility site, senior management officials and

operator personnel of the licensee, and the Governor of Pennsylvania and other State officials, in the thirty day period immediately following the accident of March 28, 1979, at unit two of the Three Mile Island Nuclear Station in Pennsylvania. Such investigation and study shall include, but not be limited to, a determination of the need for improved communications procedures and the need for advanced communications technology.

(b) The Commission shall report to the Congress by September 30, 1980, on the findings of the investigation and study required by subsection (a), including recommendations on administrative or legislative measures necessary to facilitate expeditious and reliable communications in case of an accident which could result in an unplanned release of quantities of fission products in excess of the allowable limits for normal operation established by the Commission at a utilization facility licensed under section 103 or 104 b. of the Atomic Energy Act of 1954. The Commission shall implement, as soon as practicable, each such recommendation not requiring legislative enactment, and shall incorporate the recommendation in the plan for agency response promulgated pursuant to section 304 of this Act.

Report to Congress.

42 USC 2133, 2134.

SEC. 307. (a) The Commission is authorized and directed to prepare a plan for improving the technical capability of licensee personnel to safely operate utilization facilities licensed under section 103 or 104 b. of the Atomic Energy Act of 1954. In proposing such plan, the Commission shall consider the feasibility of requiring standard mandatory training programs for nuclear facility operators, including classroom study, apprenticeships at the facility, and emergency simulator training. Such plan shall include specific criteria for more intensive training and retraining of operator personnel licensed under section 107 of the Atomic Energy Act of 1954, and for the licensing of such personnel, to assure—

Plan, development.

42 USC 2137 note.

42 USC 2137.

(1) conformity with all conditions and requirements of the operating license;

(2) early identification of accidents, events, or event sequences which may significantly increase the likelihood of an accident; and

(3) effective response to any such event or sequence.

Such plan shall include provision for Commission review and approval of the qualifications of personnel conducting any required training and retraining program. The plan shall also include requirements for the renewal of operator licenses including, to the extent practicable, requirements that the operator—

(A) has been actively and extensively engaged in the duties listed in such license,

(B) has discharged such duties safely to the satisfaction of the Commission,

(C) is capable of continuing such duties, and

(D) has participated in a requalification training program.

Such plan shall include criteria for suspending or revoking operator licenses. In addition, the Commission shall also consider the feasibility of requiring such licensed operator to pass a requalification test every six months including—

(i) written questions, and

(ii) emergency simulator exams.

The Commission shall transmit to the Congress the plan required by this subsection within six months after the date of the enactment of this Act, and shall implement as expeditiously as practicable each element thereof not requiring legislative enactment.

Plan, transmittal to Congress.

Study.

42 USC 2137.

Report to Congress.

(b) The Nuclear Regulatory Commission is authorized and directed to undertake a study of the feasibility and value of licensing, under section 107 of the Atomic Energy Act of 1954, plant managers of utilization facilities and senior licensee officers responsible for operation of such facilities. The Commission shall report to the Congress within six months of the date of enactment of this Act on the findings and recommendations of the study required by this subsection, and shall expeditiously implement each such recommendation not requiring legislative enactment.

SEC. 308. (a) In the conduct of the study required by section 5(d) of the Nuclear Regulatory Commission Authorization Act for Fiscal Year 1979 (Public Law 95-601), the Nuclear Regulatory Commission and the Environmental Protection Agency, in consultation with the Secretary of Health and Human Services, shall evaluate the feasibility of epidemiological research on the health effects of low-level ionizing radiation exposure to licensee, contractor, and subcontractor employees as a result of—

42 USC 2051 note.

(1) the accident of March 28, 1979, at unit two of the Three Mile Island Nuclear Station in Pennsylvania;

(2) efforts to stabilize such facility or reduce or prevent radioactive unplanned offsite releases in excess of allowable limits for normal operation established by the Commission; or

(3) efforts to decontaminate, decommission, or repair such facility.

The report required by such section 5(d) shall include the results of the evaluation required under this subsection.

42 USC 2051 note.

(b) Section 5(d) of the Nuclear Regulatory Commission Authorization Act for Fiscal Year 1979 (Public Law 95-601), is amended by striking "September 30, 1979" and inserting in lieu thereof "September 30, 1980".

Approved June 30, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 96-194, pt. 1 (Comm. on Interior and Insular Affairs), No. 96-194, pt. 2 (Comm. on Interstate and Foreign Commerce), both accompanying H.R. 2608, and No. 96-1070 (Comm. of Conference).

SENATE REPORT No. 96-176 (Comm. on Environment and Public Works).

CONGRESSIONAL RECORD:

Vol. 125 (1979): July 16, 17, considered and passed Senate.
Nov. 29, Dec. 4, H.R. 2608 considered and passed House; passage vacated and S. 562, amended, passed in lieu.

Vol. 126 (1980): June 10, House agreed to conference report.
June 16, Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:

Vol. 16, No. 27 (1980): June 30, Presidential statement.

Public Law 96-296
96th Congress

An Act

To amend subtitle IV of title 49, United States Code, to provide for more effective regulation of motor carriers of property, and for other purposes.

July 1, 1980
[S. 2245]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Motor Carrier Act of 1980".

Motor Carrier Act of 1980.
49 USC 10101 note.

PURPOSE OF THE ACT

SEC. 2. This Act is part of the continuing effort by Congress to reduce unnecessary regulation by the Federal Government.

49 USC 10101 note.

CONGRESSIONAL FINDINGS

SEC. 3. (a) The Congress hereby finds that a safe, sound, competitive, and fuel efficient motor carrier system is vital to the maintenance of a strong national economy and a strong national defense; that the statutes governing Federal regulation of the motor carrier industry are outdated and must be revised to reflect the transportation needs and realities of the 1980's; that historically the existing regulatory structure has tended in certain circumstances to inhibit market entry, carrier growth, maximum utilization of equipment and energy resources, and opportunities for minorities and others to enter the trucking industry; that protective regulation has resulted in some operating inefficiencies and some anticompetitive pricing; that in order to reduce the uncertainty felt by the Nation's transportation industry, the Interstate Commerce Commission should be given explicit direction for regulation of the motor carrier industry and well-defined parameters within which it may act pursuant to congressional policy; that the Interstate Commerce Commission should not attempt to go beyond the powers vested in it by the Interstate Commerce Act and other legislation enacted by Congress; and that legislative and resulting changes should be implemented with the least amount of disruption to the transportation system consistent with the scope of the reforms enacted.

49 USC 10101 note.

49 USC prec. 1 note.

(b) The appropriate authorizing committees of Congress shall conduct periodic oversight hearings on the effects of this legislation, no less than annually for the first 5 years following the date of enactment of this Act, to ensure that this Act is being implemented according to congressional intent and purpose.

Periodic oversight hearings.

NATIONAL TRANSPORTATION POLICY

SEC. 4. Section 10101(a) of title 49, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (5);

(2) by striking out the period at the end of paragraph (6) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(7) with respect to transportation of property by motor carrier, to promote competitive and efficient transportation services in order to (A) meet the needs of shippers, receivers, and consumers; (B) allow a variety of quality and price options to meet changing market demands and the diverse requirements of the shipping public; (C) allow the most productive use of equipment and energy resources; (D) enable efficient and well-managed carriers to earn adequate profits, attract capital, and maintain fair wages and working conditions; (E) provide and maintain service to small communities and small shippers; (F) improve and maintain a sound, safe, and competitive privately-owned motor carrier system; (G) promote greater participation by minorities in the motor carrier system; and (H) promote intermodal transportation."

MOTOR CARRIER ENTRY POLICY

SEC. 5. (a) Section 10922 of title 49, United States Code, is amended—

(1) in subsection (a) by inserting "of passengers" after "motor common carrier";

(2) by redesignating subsections (b), (c), (d), (e), and (f), and all references thereto, as subsections (c), (d), (e), (f), and (g), respectively; and

(3) by inserting after subsection (a) the following new subsection:

Certificate issuance.

"(b)(1) Except as provided in this section, the Interstate Commerce Commission shall issue a certificate to a person authorizing that person to provide transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title as a motor common carrier of property if the Commission finds—

49 USC 10521.

"(A) that the person is fit, willing, and able to provide the transportation to be authorized by the certificate and to comply with this subtitle and regulations of the Commission; and

"(B) on the basis of evidence presented by persons supporting the issuance of the certificate, that the service proposed will serve a useful public purpose, responsive to a public demand or need;

unless the Commission finds, on the basis of evidence presented by persons objecting to the issuance of a certificate, that the transportation to be authorized by the certificate is inconsistent with the public convenience and necessity.

"(2) In making a finding under paragraph (1) of this subsection, the Commission shall consider and, to the extent applicable, make findings on at least the following:

Ante, p. 793.

"(A) the transportation policy of section 10101(a) of this title; and

"(B) the effect of issuance of the certificate on existing carriers, except that the Commission shall not find diversion of revenue or traffic from an existing carrier to be in and of itself inconsistent with the public convenience and necessity.

Commission finding, limitation.

"(3) The Commission may not make a finding relating to public convenience and necessity under paragraph (1) of this subsection which is based upon general findings developed in rulemaking proceedings.

"(4) The provisions of paragraph (1) of this subsection (other than subparagraph (A)) shall not apply to applications under this subsection for authority to provide— Transportation authority applications.

"(A) transportation to any community not regularly served by a motor common carrier of property certificated under this section;

"(B) transportation services which will be a direct substitute for abandoned rail service to a community if such abandonment results in such community not having any rail service and if such application is filed within 120 days after such abandonment has been approved by the Commission;

"(C) transportation for the United States Government of property other than used household goods, hazardous or secret materials, and sensitive weapons and munitions;

"(D) transportation of shipments weighing 100 pounds or less if transported in a motor vehicle in which no one package exceeds 100 pounds; and

"(E) transportation by motor vehicle of food and other edible products (including edible byproducts but excluding alcoholic beverages and drugs) intended for human consumption, agricultural limestone and other soil conditioners, and agricultural fertilizers if—

"(i) such transportation is provided with the owner of the motor vehicle in such vehicle, except in emergency situations; and

"(ii) after issuance of the certificate, such transportation (measured by tonnage) does not exceed, on an annual basis, the transportation provided by the motor vehicle (measured by tonnage) which is exempt from the jurisdiction of the Commission under section 10526(a)(6) of this title and the owner of the motor vehicle certifies to the Commission annually that he is complying with the provisions of this clause and provides to the Commission such information and records as the Commission may require.

Post, p. 797.

"(5) Notwithstanding any other provision of law, any carrier holding authority under paragraph (4)(D) of this subsection operating one or more commercial motor vehicles with a gross vehicle weight rating of 10,000 pounds or more shall be subject to commercial motor vehicle safety regulations promulgated by the Secretary of Transportation pursuant to its title with respect to its entire operations, including the operations of commercial motor vehicles with gross vehicle weight ratings less than 10,000 pounds.

"(6) The Commission shall streamline and simplify, to the maximum extent practicable, the process for issuance of certificates to which the provisions of paragraph (4)(E) of this subsection apply.

"(7) No motor common carrier of property may protest an application to provide transportation filed under this subsection unless— Application protest by carrier.

"(A)(i) it possesses authority to handle, in whole or in part, the traffic for which authority is applied;

"(ii) it is willing and able to provide service that meets the reasonable needs of the shippers involved; and

"(iii) it has performed service within the scope of the application during the previous 12-month period or has, actively in good faith, solicited service within the scope of the application during such period;

"(B) it has pending before the Commission an application filed prior in time to the application being considered for substantially the same traffic; or

"(C) the Commission grants leave to intervene upon a showing of other interests that are not contrary to the transportation policy set forth in section 10101(a) of this title.

Ante, p. 793.

"(8) No motor contract carrier of property may protest an application to provide transportation filed under this subsection.".

(b) Section 11145 of title 49, United States Code, is amended by adding at the end thereof the following new subsection:

Reporting requirements, simplification.

"(c) The Commission shall streamline and simplify, to the maximum extent practicable, the reporting requirements applicable under this subchapter to motor common carriers of property with respect to transportation provided under certificates to which the provisions of section 10922(b)(4)(E) of this title apply and to motor contract carriers of property with respect to transportation provided under permits to which the provisions of section 10923(b)(5) of this title apply.".

Ante, p. 794.

Post, p. 799.

(c)(1) Section 10762(a)(1) of title 49, United States Code, is amended by striking out the last sentence and inserting in lieu thereof the following: "A motor contract carrier that serves only one shipper and has provided continuous transportation to that shipper for at least one year or a motor carrier of property providing transportation under a certificate to which the provisions of section 10922(b)(4)(E) of this title apply or under a permit to which the provisions of section 10923(b)(5) of this title apply may file only its minimum rates unless the Commission finds that filing of actual rates is required in the public interest.".

(2) Section 10762 of title 49, United States Code, is amended by adding at the end thereof the following new subsection:

Filing requirements, simplification.

"(g) The Commission shall streamline and simplify, to the maximum extent practicable, the filing requirements applicable under this section to motor common carriers of property with respect to transportation provided under certificates to which the provisions of section 10922(b)(4)(E) of this title apply and to motor contract carriers of property with respect to transportation provided under permits to which the provisions of section 10923(b)(5) of this title apply.".

REMOVAL OF CERTAIN RESTRICTIONS ON MOTOR CARRIER OPERATION

SEC. 6. Section 10922 of title 49, United States Code, is further amended by adding at the end thereof the following new subsections:

"(h)(1) Not later than 180 days after the date of enactment of this subsection, the Commission shall—

"(A) eliminate gateway restrictions and circuitous route limitations imposed upon motor common carriers of property; and

"(B) implement, by regulation, procedures to process expeditiously applications of individual motor carriers of property seeking removal of operating restrictions in order to—

"(i) reasonably broaden the categories of property authorized by the carrier's certificate or permit;

"(ii) authorize transportation or service to intermediate points on the carrier's routes;

"(iii) provide round-trip authority where only one-way authority exists;

"(iv) eliminate unreasonable or excessively narrow territorial limitations; or

"(v) eliminate any other unreasonable restriction that the Commission deems to be wasteful of fuel, inefficient, or contrary to the public interest.

"(2) The regulations promulgated by the Commission pursuant to paragraph (1)(B) of this subsection shall provide for final Commission action upon an application not later than 120 days after the date the application is filed with the Commission, except that in extraordinary circumstances, the Commission may extend such deadline for a period of not to exceed 90 additional days. Such regulations shall also provide for notice and the opportunity for interested parties to comment, but need not provide for oral evidentiary hearings. In granting or denying applications under paragraph (1)(B) of this subsection, the Commission shall (A) consider, among other things, the impact of the proposed restriction removal upon the consumption of energy resources, potential cost savings and improved efficiency, and the transportation policy set forth in section 10101(a) of this title, and (B) give special consideration to providing and maintaining service to small and rural communities and small shippers.

"(i) A person holding (1) a certificate issued under subsection (b) of this section to provide transportation as a motor common carrier of property, and (2) a permit issued under section 10923 of this subchapter to provide transportation as a motor contract carrier of property, may transport property under the certificate in the same motor vehicle and at the same time as property under the permit.".

Regulations.

Notice and comment period.

Ante, p. 793.

Post, p. 799.

EXEMPTIONS

SEC. 7. (a) Section 10526(a)(6) of title 49, United States Code, is amended—

(1) by inserting "or by-products thereof not intended for human consumption," after "fresh shellfish," in subparagraph (D);

(2) by striking out "and" at the end of subparagraph (C);

(3) by inserting "and" after the semicolon at the end of subparagraph (D); and

(4) by adding at the end of such section the following new subparagraph:

"(E) livestock and poultry feed and agricultural seeds and plants, if such products (excluding products otherwise exempt under this paragraph) are transported to a site of agricultural production or to a business enterprise engaged in the sale to agricultural producers of goods used in agricultural production;".

Agricultural products.

(b) Section 10526(a)(8) of title 49, United States Code, is amended to read as follows:

"(8)(A) transportation of passengers by motor vehicle incidental to transportation by aircraft;

"(B) transportation of property (including baggage) by motor vehicle as part of a continuous movement which, prior or subsequent to such part of the continuous movement, has been or will be transported by an air carrier or (to the extent so agreed by the United States and approved by the Civil Aeronautics Board or its successor agency) by a foreign air carrier; or

"(C) transportation of property by motor vehicle in lieu of transportation by aircraft because of adverse weather conditions or mechanical failure of the aircraft or other causes due to circumstances beyond the control of the carrier or shipper;".

Aircraft passengers and baggage, transportation.

(c) Section 10526(a) of title 49, United States Code, is further amended by (1) striking the period at the end thereof and substituting a semicolon, and (2) adding at the end thereof the following new paragraphs:

"(10) transportation of used pallets and used empty shipping containers (including intermodal cargo containers), and other used shipping devices (other than containers or devices used in the transportation of motor vehicles or parts of motor vehicles);

"(11) transportation of natural, crushed, vesicular rock to be used for decorative purposes; or

"(12) transportation of wood chips.".

FOOD TRANSPORTATION

SEC. 8. (a) Subchapter II of chapter 107 of title 49, United States Code, is amended by adding at the end thereof the following new section:

49 USC 10732.

"§ 10732. Food and grocery transportation

Customer compensation.

"(a) Notwithstanding any other provision of law, it shall not be unlawful for a seller of food and grocery products using a uniform zone delivered pricing system to compensate a customer who picks up purchased food and grocery products at the shipping point of the seller if such compensation is available to all customers of the seller on a nondiscriminatory basis and does not exceed the actual cost to the seller of delivery to such customer.

Consumer savings.

Report to Congress.

"(b) It is the sense of the Congress that any savings accruing to a customer by reason of compensation permitted by subsection (a) of this section should be passed on to the ultimate consumer. The Interstate Commerce Commission shall monitor the extent to which such savings are being passed on and shall report its findings to the Congress not later than one year after the date of enactment of the Motor Carrier Act of 1980 and not less often than once a year thereafter. For purposes of this subsection, the Interstate Commerce Commission may exercise its powers to obtain relevant papers, books, documents, and other materials.".

Ante, p. 793.

(b) The index for subchapter II of chapter 107 of title 49, United States Code, is amended by adding at the end thereof the following:

"10732. Food and grocery transportation.".

PRIVATE CARRIAGE

SEC. 9. Section 10524 of title 49, United States Code, is amended by inserting "(a)" before "The" and by adding at the end of such section the following new subsections:

Transportation of property, jurisdiction.

"(b) The Commission does not have jurisdiction under this subchapter over transportation of property by motor vehicle for compensation provided by a person who is a member of a corporate family for other members of such corporate family if—

"(1) the parent corporation notifies the Commission of its intent or one of its subsidiaries' intent to provide the transportation;

"(2) the notice contains a list of participating subsidiaries and an affidavit that the parent corporation owns directly or indirectly a 100 percent interest in each of the subsidiaries;

Publication in Federal Register.

"(3) the Commission publishes the notice in the Federal Register within 30 days of receipt; and

"(4) a copy of the notice is carried in the cab of all vehicles conducting the transportation.

"(c) In this section, 'corporate family' means a group of corporations consisting of a parent corporation and all subsidiaries in which the parent corporation owns directly or indirectly a 100 percent interest.". "Corporate family."

MOTOR CONTRACT CARRIERS

SEC. 10. (a)(1) Section 10102(12) of title 49, United States Code, is amended to read as follows:

"(12) 'motor contract carrier' means— "Motor contract carrier."

"(A) a person, other than a motor common carrier, providing motor vehicle transportation of passengers for compensation under continuing agreements with a person or a limited number of persons—

"(i) by assigning motor vehicles for a continuing period of time for the exclusive use of each such person; or

"(ii) designed to meet the distinct needs of each such person; and

"(B) a person providing motor vehicle transportation of property for compensation under continuing agreements with one or more persons—

"(i) by assigning motor vehicles for a continuing period of time for the exclusive use of each such person; or

"(ii) designed to meet the distinct needs of each such person.".

(2) Section 10923(b) of title 49, United States Code, is amended by—

(A) inserting in paragraph (2) "of passengers" after "motor contract carrier"; and

(B) redesignating paragraph (3) (and any references thereto) as paragraph (7) and inserting after paragraph (2) the following new paragraphs:

"(3) In deciding whether to approve the application of a person for a permit as a motor contract carrier of property, the Commission shall consider— Permits, application approval.

"(A) the nature of the transportation proposed to be provided;

"(B) the effect that granting the permit would have on the protesting carriers if such grant would endanger or impair their operations to an extent contrary to the public interest;

"(C) the effect that denying the permit would have on the person applying for the permit, its shippers, or both; and

"(D) the changing character of the requirements of those shippers.

"(4) No motor carrier of property may protest an application to provide transportation as a motor contract carrier of property filed under this section unless— Application protest by carrier.

"(A)(i) it possesses authority to handle, in whole or in part, the traffic for which authority is applied;

"(ii) it is willing and able to provide service that meets the reasonable needs of the shippers involved; and

"(iii) it has performed service within the scope of the application during the previous 12-month period or has, actively in good faith, solicited service within the scope of the application during such period;

"(B) it has pending before the Commission an application filed prior in time to the application being considered for substantially the same traffic; or

"(C) the Commission grants leave to intervene upon a showing of other interests that are not contrary to the transportation policy set forth in section 10101(a) of this title.

Ante, p. 793.

"(5)(A) The provisions of paragraph (2) of subsection (a) of this section and paragraph (3) of this subsection shall not apply to applications under this section for authority to provide transportation by motor vehicle of food and other edible products (including edible byproducts but excluding alcoholic beverages and drugs) intended for human consumption, agricultural limestone and other soil conditioners, and agricultural fertilizers if—

"(i) such transportation is provided with the owner of the motor vehicle in such vehicle, except in emergency situations; and

"(ii) after issuance of the permit, such transportation (measured by tonnage) does not exceed, on an annual basis, the transportation provided by the motor vehicle (measured by tonnage) which is exempt from the jurisdiction of the Commission under section 10526(a)(6) of this title and the owner of the motor vehicle certifies to the Commission annually that he is complying with the provisions of this subparagraph and provides to the Commission such information and records as the Commission may require.

Ante, p. 797.

Permit issuance process, simplification.

"(B) The Commission shall streamline and simplify, to the maximum extent practicable, the process for issuance of permits to which the provisions of subparagraph (A) of this paragraph apply.

Commission finding, limitation.

"(6) With respect to applications of persons for permits as motor contract carriers of property, the Commission may not make a finding relating to the public interest under subsection (a)(2) of this section which is based upon general findings developed in rulemaking proceedings.".

(3) Section 10923(d) of title 49, United States Code, is amended—

(A) in the first sentence of paragraph (1) by inserting the following immediately before the period at the end thereof: ", except that in the case of a motor contract carrier of property, the Commission may not require such carrier to limit its operations to carriage for a particular industry or within a particular geographic area"; and

(B) in paragraph (2) by striking "including each person or number or class of persons" and substituting "including each person or class of persons (and, in the case of a motor contract carrier of passengers, the number of persons)".

Certificates and permits, limitations.

(b) Section 10930(a) of title 49, United States Code, is amended—

(1) in paragraph (1) by striking "both a certificate of a motor common carrier and a permit of a motor contract carrier issued under this subchapter, or"; and

(2) by striking out paragraph (2) and inserting in lieu thereof the following:

"(2) if a person controls, is controlled by, or is under common control with, another person, one of them may not hold a certificate of a water common carrier, while the other holds a permit of a water contract carrier, to transport property over the same route or in the same area.".

(c) Section 10749 of title 49, United States Code, is amended—

(1) in subsection (a) by inserting ", or a motor contract carrier of property," after "carrier"; and

(2) in subsection (b)(1) by inserting ", or motor contract carrier of property," after "water common carrier".

(d) Section 10766(b) of title 49, United States Code, is amended—

(1) by inserting ", and motor contract carriers of property," after "carriers" in the first sentence;

(2) by inserting "or the motor contract carrier of property" after "carrier" in the third sentence; and

(3) by striking the fifth sentence.

(e) Section 10925 of title 49, United States Code, is amended by adding at the end thereof the following new subsection:

Permit revocation, conditions. *Ante*, p. 799. *Ante*, p. 794.

"(e)(1) On application of a motor contract carrier of property who holds a permit issued under section 10923 of this title, or on complaint of a competing motor common carrier of property who holds a certificate under section 10922(b) of this title, or on its own initiative, if the Commission, after notice and an opportunity for a proceeding, determines that the operations under the permit or any part thereof—

"(A) do not conform with the operations of a motor contract carrier of property; and

"(B) are those of a motor common carrier of property;

the Commission may amend or revoke such permit or part thereof to conform the operations under such permit or part thereof to the operations of a motor contract carrier of property.

Certificate.

"(2) The Commission may issue in place of any permit or part thereof revoked under this subsection a certificate under section 10922(b) of this title which authorizes the holder of such certificate to provide transportation as a motor common carrier of property of the same property between the same points or within the same territory as authorized in the permit or part thereof.".

ZONE OF RATE FREEDOM FOR MOTOR CARRIERS OF PROPERTY AND FREIGHT FORWARDERS

SEC. 11. Section 10708 of title 49, United States Code, is amended by adding at the end thereof the following new subsection:

Rate changes, conditions.

"(d)(1) Notwithstanding any other provision of this title, the Commission may not investigate, suspend, revise, or revoke any rate proposed by a motor common carrier of property or freight forwarder on the grounds that such rate is unreasonable on the basis that it is too high or too low if—

"(A) the carrier notifies the Commission that it wishes to have the rate considered pursuant to this subsection; and

"(B) the aggregate of increases and decreases in any such rate is not more than 10 percent above the rate in effect one year prior to the effective date of the proposed rate, nor more than 10 percent below the lesser of the rate in effect on July 1, 1980 (or, in the case of any rate which a carrier first establishes after July 1, 1980, for a service not provided by such carrier on such date, such rate on the date such rate first becomes effective), or the rate in effect one year prior to the effective date of the proposed rate.

Increase of percentages, conditions.

"(2) The Commission, by rule, may increase the percentages specified in paragraph (1)(B) of this subsection for any group of motor common carriers of property or freight forwarders if it finds that—

"(A) there is sufficient actual and potential competition to regulate rates; and

"(B) there are benefits to (i) carriers or freight forwarders, (ii) shippers, and (iii) the public from further rate flexibility;

except that the Commission may not increase such percentages by more than 5 percentage points during any one-year period.

"(3)(A) In determining, pursuant to paragraph (1)(B) of this subsection, whether the aggregate of increases and decreases in a proposed rate that is to take effect on or before the 730th day following the date of enactment of this paragraph is more than 10 percent (or such other percentage as the Commission may establish under paragraph (2) of this subsection) above the rate in effect one year prior to the effective date of the proposed rate, general rate increases obtained in the one-year period prior to the effective date of the proposed rate shall not be included in such aggregate, except to the extent that such general rate increases exceed 5 percent of the rate in effect one year prior to the effective date of the proposed rate.

Rate change according to Producers Price Index.

"(B) In the case of a proposed rate that is to take effect after the 730th day following the date of enactment of this paragraph, the percentage which first appears in paragraph (1)(B) of this subsection (relating to the upper limit of the zone of ratemaking freedom), or such other percentage as the Commission may establish under paragraph (2) of this subsection in lieu of such percentage, shall be increased or decreased, as the case may be, by the percentage change in the Producers Price Index, as published by the Department of Labor, that has occurred during the one-year period prior to the effective date of the proposed rate.

Antitrust laws.

"(4) Any rate implemented by a carrier pursuant to this subsection shall be subject to the antitrust laws, as defined in the first section of the Clayton Act (15 U.S.C. 12), except that the docketing and publication of such rate by the carrier under section 10706(b) of this title shall not be construed as a violation of the antitrust laws. Nothing in this subsection shall limit the Commission's authority to suspend and investigate proposed rates on the basis that such rates may violate the provisions of section 10741 of this title or constitute predatory practices in contravention of the transportation policy set forth in section 10101(a) of this title.".

Post, p. 803.

49 USC 10741.

Ante, p. 793.

RATES AND LIABILITY BASED ON VALUE

SEC. 12. Section 10730 of title 49, United States Code, is amended by inserting "(a)" before "The Interstate Commerce Commission", by inserting "(including a motor common carrier of household goods but excluding any other motor common carrier of property)" after "authorize a carrier", and by adding at the end thereof the following new subsection:

"(b)(1) Subject to the provisions of paragraph (2) of this subsection, a motor common carrier providing transportation or service subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title may, subject to the provisions of this chapter (including the general tariff requirements of section 10762 of this title), establish rates for the transportation of property (other than household goods) under which the liability of the carrier for such property is limited to a value established by written declaration of the shipper or by written agreement between the carrier and shipper if that value would be reasonable under the circumstances surrounding the transportation.

49 USC 10521.

Ante, p. 796.

"(2) Before a carrier may establish a rate for any service under paragraph (1) of this subsection, the Commission may require such

carrier to have in effect and keep in effect, during any period such rate is in effect under such paragraph, a rate for such service which does not limit the liability of the carrier.".

RULE OF RATEMAKING

SEC. 13. (a) Section 10701 of title 49, United States Code, is amended by adding at the end thereof the following new subsection:

"(e) In proceedings to determine the reasonableness of rate levels for a motor carrier of property or group of motor carriers of property, or in proceedings to determine the reasonableness of a territorial rate structure where rates are proposed through agreements authorized by section 10706(b) of this title, the Commission shall authorize revenue levels that are adequate under honest, economical, and efficient management to cover total operating expenses, including the operation of leased equipment and depreciation, plus a reasonable profit. The standards and procedures adopted by the Commission under this subsection shall allow the carriers to achieve revenue levels that will provide a flow of net income, plus depreciation, adequate to support prudent capital outlays, assure the repayment of a reasonable level of debt, permit the raising of needed equity capital, attract and retain capital in amounts adequate to provide a sound motor carrier transportation system in the United States, and take into account reasonable estimated or foreseeable future costs.". *Infra.*

(b) Section 10704(b)(2) of title 49, United States Code, is amended to read as follows:

"(2)(A) When prescribing a rate, classification, rule, or practice for transportation or service by common carriers other than by rail carrier, the Commission shall consider, among other factors, the effect of the prescribed rate, classification, rule, or practice on the movement of traffic by that carrier.

"(B) When prescribing a rate, classification, rule, or practice for transportation or service by common carriers other than by rail carrier or motor carrier of property, the Commission shall consider, among other factors, the need for revenues that are sufficient, under honest, economical, and efficient management, to let the carrier provide that transportation or service.".

RATE BUREAUS

SEC. 14. (a) Section 10706 of title 49, United States Code, is amended by redesignating subsections (b), (c), (d), (e), (f), (g), and (h) (and any references thereto) as subsections (c), (d), (e), (f), (g), (h), and (i), respectively, and by inserting the following new subsection after subsection (a):

"(b)(1) In this subsection, 'single-line rate' refers to a rate, charge, or allowance proposed by a single motor common carrier of property that is applicable only over its line and for which the transportation can be provided by that carrier. "Single-line rate."

"(2) As provided by this subsection, a motor common carrier of property providing transportation or service subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title may enter into an agreement with one or more such carriers concerning rates (including charges between carriers and compensation paid or received for the use of facilities and equipment), allowances, classifications, divisions, or rules related to them, or procedures for joint consideration, initiation, or establishment of 49 USC 10521.

them. Such agreement may be submitted to the Commission for approval by any carrier or carriers which are parties to such agreement and shall be approved by the Commission upon a finding that the agreement fulfills each requirement of this subsection, unless the Commission finds that such agreement is inconsistent with the transportation policy set forth in section 10101(a) of this title. The Commission may require compliance with reasonable conditions consistent with this subtitle to assure that the agreement furthers such transportation policy. If the Commission approves the agreement, it may be made and carried out under its terms and under the conditions required by the Commission, and the antitrust laws, as defined in the first section of the Clayton Act (15 U.S.C. 12), do not apply to parties and other persons with respect to making or carrying out the agreement.

Ante, p. 793.

Agreements, approval conditions.

"(3) Agreements submitted to the Commission under this subsection may be approved by the Commission only if each of the following conditions are met:

"(A) Each carrier which is a party to an agreement must file with the Commission a verified statement that specifies its name, mailing address, and telephone number of its main office; the names of each of its affiliates; the names, addresses, and affiliates of each of its officers and directors; the names, addresses, and affiliates of each person, together with an affiliate, owning or controlling any debt, equity, or security interest in it having a value of at least $1,000,000. In this subparagraph, 'affiliate' means a person controlling, controlled by, or under common control or ownership with another person and 'ownership' means equity holdings in a business entity of at least 5 percent.

"Affiliate."
"Ownership."

Compliance requirements.

"(B) Any organization established or continued under an agreement approved under this subsection must comply with the following requirements:

"(i) subject to the provisions of subparagraphs (C) and (D) of this paragraph, (I) the organization may allow any member carrier to discuss any rate proposal docketed, but (II) after January 1, 1981, only those carriers with authority to participate in the transportation to which the rate proposal applies may vote upon such rate proposal;

"(ii) the organization may not interfere with each carrier's right of independent action and may not change or cancel any rate established by independent action after the date of enactment of this subsection, other than a general increase or broad rate restructuring, except that changes in such rates may be effected, with the consent of the carrier or carriers that initiated the independent action, for the purpose of tariff simplification, removal of discrimination, or elimination of obsolete items;

"(iii) the organization may not file a protest or complaint with the Commission against any tariff item published by or for the account of any motor carrier of property;

"(iv) the organization may not permit one of its employees or any employee committee to docket or act upon any proposal effecting a change in any tariff item published by or for the account of any of its member carriers;

"(v) upon request, the organization must divulge to any person the name of the proponent of a rule or rate docketed with it, must admit any person to any meeting at which rates or rules will be discussed or voted upon, and must divulge to

any person the vote cast by any member carrier on any proposal before the organization;

"(vi) the organization may not allow a carrier to vote for one or more other carriers without specific written authority from the carrier being represented; and

"(vii) the organization shall make a final disposition of a rule or rate docketed with it by the 120th day after the proposal is docketed, except that if unusual circumstances require, the organization may extend such period, subject to review by the Commission.

"(C) No agreement approved under this subsection may provide for discussion of or voting on rates to which the provisions of section 10708(d) or 10730(b) of this title apply, except that rates established or filed under section 10730 of this title before the date of enactment of the Motor Carrier Act of 1980 or changes with respect to such rates may be discussed or voted on under agreements approved under this subsection until January 1, 1984.

Ante, pp. 801, 802.

Ante, p. 793.

"(D) No agreement approved under this subsection may provide for discussion of or voting upon single-line rates on or after January 1, 1984, except that such date shall be July 1, 1984, if the Motor Carrier Ratemaking Study Commission does not submit its final report under section 14(b)(4) of the Motor Carrier Act of 1980 on or before January 1, 1983. This subparagraph and subparagraph (B)(i)(II) of this paragraph shall not apply to the following:

Single-line rates.

Ante, p. 803.

"(i) general rate increases or decreases if the agreement gives shippers, under specified procedures, at least 15 days' notice of the proposal and an opportunity to present comments on it before a tariff containing the increases or decreases is filed with the Commission and if discussion of such increases or decreases is limited to industry average carrier costs and, after the date of elimination of the antitrust immunity by this subparagraph, does not include discussion of individual markets or particular single-line rates;

"(ii) changes in commodity classifications;

"(iii) changes in tariff structures if discussion of such changes is limited to industry average carrier costs and, after the date of elimination of antitrust immunity by this subparagraph, does not include discussion of individual markets or particular single-line rates;

"(iv) publishing of tariffs, filing of independent actions for individual members carriers, providing of support services for members, and changes in rules or regulations which are of at least substantially general application throughout the area in which such changes will apply.

"(E) In any proceeding in which a party to such proceeding alleges that a carrier voted, discussed, or agreed on a rate or allowance in violation of this subsection, that party has the burden of showing that the vote, discussion, or agreement occurred. A showing of parallel behavior does not satisfy that burden by itself.

"(F) The Commission shall, by regulation, determine reasonable quorum standards to be applied for meetings of organizations established or continued under an agreement approved under this subsection.

Quorum standards.

"(4) Notwithstanding any other provision of this subtitle, before the date on which the antitrust immunity is eliminated for discussion of or voting on single-line rates by paragraph (3)(D) of this subsection, the Commission may not take any action which would, on the basis of the type of carrier service involved (including service by carriers singly or in combination with other carriers), result in the exclusion of one or more motor common carriers of property from discussion or voting under agreements authorized by this subsection on matters concerning rates, allowances, classifications, or divisions, except that before such date, the Commission may issue regulations which take effect on or after such date to carry out the provisions of such paragraph.".

Motor Carrier Ratemaking Study Commission. Establishment.

(b)(1) There is hereby established a Study Commission to be known as the Motor Carrier Ratemaking Study Commission, hereinafter in this section referred to as the "Study Commission".

(2) The Study Commission shall make a full and complete investigation and study of the collective ratemaking process for all rates of motor common carriers and upon the need or lack of need for continued antitrust immunity therefor. Such study shall estimate the impact of the elimination of such immunity upon rate levels and rate structures and describe the impact of the elimination of such immunity upon the Interstate Commerce Commission and its staff. The study shall give special consideration to the effect of the elimination of such immunity upon rural areas and small communities.

Membership.

(3) The Study Commission shall be comprised of ten members as follows:

(A) three members appointed by the President of the Senate, two from the membership of the Committee on Commerce, Science, and Transportation and one from the membership of the Committee on the Judiciary;

(B) three members appointed by the Speaker of the House of Representatives, two from the membership of the Committee on Public Works and Transportation and one from the membership of the Committee on the Judiciary; and

(C) four members of the public appointed by the President, two from the membership of national trade associations of shippers, one who is a motor common carrier of property from the membership of the national trade association of motor carriers, and one who is a motor common carrier of property from the membership of a major regional motor common carrier rate bureau.

Report to President and Congress. Termination. Records and papers.

(4) The Study Commission shall, not later than January 1, 1983, submit to the President and the Congress its final report including its findings and recommendations. The Study Commission shall cease to exist 6 months after submission of such report. All records and papers of the Study Commission shall thereupon be delivered to the Administrator of General Services for deposit in the Archives of the United States.

Liaison officer, appointment.

(5) The Chairman of the Study Commission, who shall be elected by the Commission from among its members, shall request the head of each Federal department or agency which has an interest in or a responsibility with respect to motor carrier collective ratemaking to appoint, and the head of such department or agency shall appoint, a liaison officer who shall work closely with the Study Commission and its staff in matters pertaining to this subsection. Such departments and agencies shall include, but not be limited to, the Department of

Transportation, the Interstate Commerce Commission, the Federal Trade Commission, and the Department of Justice.

(6) In carrying out its duties, the Study Commission shall seek the advice of various groups interested in motor carrier collective ratemaking including, but not limited to, State and local governments and public and private organizations working in the field of transportation.

Hearings.

(7)(A) The Study Commission or, on authorization of the Study Commission, any committee of two or more members may, for the purpose of carrying out the provisions of this subsection, hold such hearings and sit and act at such times and places as the Study Commission or such authorized committee may deem advisable.

Information from Federal agencies.

(B) The Study Commission is authorized to secure from any department, agency, or instrumentality of the executive branch of the Government any information it deems necessary to carry out its functions under this subsection and each department, agency, and instrumentality is authorized and directed to furnish such information to the Study Commission upon request made by the Chairman.

Members of Congress, travel expenses.

(8)(A) Members of Congress who are members of the Study Commission shall serve without compensation in addition to that received for their services as Members of Congress; but they shall be reimbursed for travel, per diem in accordance with the Rules of the House of Representatives or subsistence, and other necessary expenses incurred by them in the performance of the duties vested in the Study Commission.

Compensation and expenses.

(B) Members of the Study Commission, except Members of Congress, shall each receive compensation at a rate not in excess of the maximum rate of pay for GS–18, as provided in the General Schedule under section 5332 of title 5, United States Code, and shall be entitled to reimbursement for travel expenses, per diem in accordance with the Rules of the House of Representatives or subsistence, and other necessary expenses incurred by them in performance of duties while serving as a Study Commission member.

44 FR 58671.

Staff director and personnel, compensation.

(9)(A) The Study Commission is authorized to appoint and fix the compensation of a staff director and such additional personnel as may be necessary to enable it to carry out its functions. The Director and personnel may be appointed without regard to the provisions of title 5, United States Code, covering appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates. Any Federal employees subject to the civil service laws and regulations who may be employed by the Study Commission shall retain civil service status without interruption or loss of status or privilege. In no event shall an employee other than the staff director receive as compensation an amount in excess of the maximum rate for GS–18 of the General Schedule under section 5332 of title 5, United States Code. In addition, the Commission is authorized to obtain the services of experts and consultants in accordance with section 3109 of title 5, United States Code, but at rates not to exceed the maximum rate of pay for grade GS–18, as provided in the General Schedule under section 5332 of title 5, United States Code.

5 USC 5101 *et seq.*, 5331.

44 FR 58671.

(B) The staff director shall be compensated at the rate of pay for a position at Level 2 of the Executive Schedule in subchapter II of chapter 53 of title 5, United States Code.

5 USC 5313.

Functions.

(10) The Study Commission is authorized to enter into contracts or agreements for studies and surveys with public and private organiza-

tions and, if necessary, to transfer funds to Federal agencies from sums appropriated pursuant to this subsection to carry out such of its duties as the Study Commission determines can best be carried out in that manner.

(11) Any vacancy which may occur on the Study Commission shall not effect its powers or functions but shall be filled in the same manner in which the original appointment was made.

Appropriation authorization.

(12) There are hereby authorized to be appropriated, for fiscal years commencing on or after October 1, 1980, an amount not to exceed $3,000,000 to carry out this subsection. Funds appropriated under this subsection shall be available to the Study Commission until expended, except that any such funds which remain unobligated on the date that the Study Commission ceases to exist shall be forwarded to the Treasurer of the United States for deposit in the general fund of the United States Treasury.

(c) Section 10706(c) of title 49, United States Code, as redesignated by subsection (a) of this section, is amended by striking "(except a rail carrier)" and substituting "(except a rail carrier or a motor common carrier of property)".

(d) Section 10706 of title 49, United States Code, is further amended—

(1) in subsections (d), (f), and (g), as redesignated by subsection (a) of this section, by striking "subsection (a) or (b)" and substituting "subsection (a), (b), or (c)"; and

(2) in subsection (f), as redesignated by subsection (a) of this section, by inserting "or (c)" immediately before the period at the end of the first sentence.

49 USC 10706 note.

Ante, p. 803.

(e) Any organization established pursuant to an agreement approved by the Commission prior to the date of enactment of this Act under section 10706(b) of title 49, United States Code, may continue to function pursuant to such agreement until a new or amended agreement is finally disposed of by the Commission under section 10706 of title 49, United States Code, as amended by this section, so long as (1) such new or amended agreement is submitted to the Commission for approval within 120 days of such date of enactment, and (2) such organization complies with this section (including amendments made by this section and regulations issued under such amendments) during the period such new or amended agreement is being prepared, submitted to, and considered by the Commission.

LUMPING

SEC. 15. (a)(1) Subchapter I of chapter 111 of subtitle IV of title 49, United States Code, is amended by inserting the following new section immediately after section 11108:

49 USC 11109.

"§ 11109. Loading and unloading motor vehicles

"(a) Whenever a shipper or receiver of property requires that any person who owns or operates a motor vehicle transporting property in interstate commerce (whether or not such transportation is subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title) be assisted in the loading or unloading of such vehicle, the shipper or receiver shall be responsible for providing such assistance or shall compensate the owner or operator for all costs associated with securing and compensating the person or persons providing such assistance.

49 USC 10521.

"(b) It shall be unlawful to coerce or attempt to coerce any person providing transportation of property by motor vehicle for compensation in interstate commerce (whether or not such transportation is subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title) to load or unload any part of such property onto or from such vehicle or to employ or pay one or more persons to load or unload any part of such property onto or from such vehicle, except that this subsection shall not be construed as making unlawful any activity which is not unlawful under the National Labor Relations Act or the Act of March 23, 1932 (47 Stat. 70; 29 U.S.C. 101 et seq.), commonly known as the Norris-LaGuardia Act.". Coercion. 49 USC 10521.

(2) The analysis for subchapter I of chapter 111 of title 49, United States Code, is amended by adding at the end thereof the following:

"11109. Loading and unloading motor vehicles.".

(b)(1) Chapter 119 of title 49, United States Code, is amended by inserting the following new section immediately after section 11902:

"§ 11902a. Penalties for violations of rules relating to loading and unloading motor vehicles 49 USC 11902a.

"(a) Any person who knowingly authorizes, consents to, or permits a violation of subsection (a) or (b) of section 11109 of this title or who knowingly violates subsection (a) of such section is liable to the United States Government for a civil penalty of not more than $10,000 for each violation. *Ante*, p. 808.

"(b) Any person who knowingly violates section 11109(b) of this title shall be fined not more than $10,000, imprisoned for not more than 2 years, or both.".

(2) The analysis for chapter 119 of title 49, United States Code, is amended by inserting the following immediately after item 11902:

"11902a. Penalties for violations of rules relating to loading and unloading motor vehicles.".

(c) Section 11702(a)(2) of title 49, United States Code, is amended by inserting "or 11109" after "10930".

(d) Section 11107 of title 49, United States Code, is amended by inserting "(a)" before "Except" and by adding at the end thereof the following new subsection:

"(b) The Commission shall require, by regulation, that any arrangement, between a motor carrier of property providing transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title and any other person, under which such other person is to provide any portion of such transportation by a motor vehicle not owned by the carrier shall specify, in writing, who is responsible for loading and unloading the property onto and from the motor vehicle.". Responsibility for loading and unloading.

(e) The Interstate Commerce Commission, in consultation with the Secretary of Transportation, the Secretary of Labor, the Secretary of Agriculture, and representatives of independent owner-operators, the motor carrier industry, shippers, receivers, consumers, and other interested persons, shall study, and report to the Congress, not later than 18 months after the date of enactment of this Act on loading and unloading practices in the motor carrier of property industry. Such report shall include (1) such recommendations for legislative and other changes in such practices as the Commission considers appropriate, and (2) any changes in such practices which the Commission is making by regulation. Loading and unloading practices. Study, report to Congress.

WRITTEN CONTRACTS PERTAINING TO CERTAIN INTERSTATE MOVEMENTS BY MOTOR CARRIER

SEC. 16. (a) Subchapter II of chapter 105 of title 49, United States Code, is amended by adding at the end thereof the following new section:

49 USC 10527.

"§ 10527. Written contracts pertaining to certain interstate movements by motor vehicle

"(a) Notwithstanding the provisions of section 10526(a)(6) of this subchapter, the Interstate Commerce Commission, in cooperation with the Secretary of Agriculture, shall, where appropriate, require by regulation the use of written contracts for the interstate movement by motor vehicle of property described in such section and for brokerage services to be provided in connection with the interstate movement of such property.

Ante, p. 797.

"(b) A written contract between an owner or operator of a motor vehicle and a broker, shipper of property, or receiver of property which is required to be used by the Commission under this section shall specify the arrangements, including compensation, with respect to loading and unloading of the property transported under such contract. Whenever the shipper or receiver of the property transported under such contract requires that the operator of the vehicle load or unload any part of the property onto or from the vehicle contrary to any provision of such contract, the shipper or receiver shall compensate the owner or operator of the vehicle for all costs associated with loading or unloading that part of the property. Any person who knowingly violates the preceding sentence is liable to the United States Government for a civil penalty of not more than $10,000 for each violation.

Violation, penalty.

"(c) The Commission shall prescribe, by regulation, the minimum requirements and conditions of written contracts required to be used under this section.".

Minimum requirements.

(b) The analysis of subchapter II of chapter 105 of title 49, United States Code, is amended by adding at the end thereof the following:

"10527. Written contracts pertaining to certain interstate movements by motor vehicle.".

Ante, p. 809.

(c) Section 11702(a)(2) of title 49, United States Code, is amended by inserting "10527 or" before "10930".

49 USC 10527 note.

(d) The Interstate Commerce Commission and the Secretary of Agriculture may enter into agreements (including, but not limited to, memorandums of understanding) in carrying out the provisions of section 10527(a) of title 49, United States Code.

Supra.

MOTOR CARRIER BROKERS OF PROPERTY

SEC. 17. (a) Section 10924 of title 49, United States Code, is amended—

(1) in subsection (a) by inserting "of passengers or household goods" after "transportation" the first place such term appears; and

(2) by redesignating subsections (b), (c), and (d) (and any references thereto) as subsections (c), (d), and (e), respectively, and by inserting after subsection (a) the following new subsection:

"(b) The Interstate Commerce Commission shall issue, subject to section 10927(b) of this title, a license to a person authorizing the

Licenses.
49 USC 10927.

person to be a broker for transportation of property (other than household goods) subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title, if the Commission finds that the person is fit, willing, and able— 49 USC 10521.

"(1) to be a broker for transportation to be authorized by the license; and

"(2) to comply with this subtitle and regulations of the Commission.".

(b) Section 10925(d)(1)(A) of title 49, United States Code, is amended by striking out "10924(d)" and inserting in lieu thereof "10924(e)".

FINANCE EXEMPTIONS

SEC. 18. (a) Section 11302(b) of title 49, United States Code, is amended by—

(1) striking "more than $1,000,000" and substituting "more than $5,000,000"; and

(2) striking "more than $200,000" and substituting "more than $1,000,000".

(b) Section 11343(d)(1) of title 49, United States Code, is amended by striking "more than $300,000" and substituting "more than $2,000,000".

UNIFORM STATE REGULATION

SEC. 19. Congress hereby declares and finds that the individual State regulations and requirements imposed upon interstate motor carriers regarding licensing, registration, and filings are in many instances confusing, lacking in uniformity, unnecessarily duplicative, and burdensome and that it is in the national interest to minimize the burdens of such regulations while at the same time preserving the legitimate interests of the State in such regulation. Therefore, the Congress directs the Secretary of Transportation and the Interstate Commerce Commission, in consultation with the States and the various State agencies which administer such requirements and regulations and with the motor carrier industry, including both the regulated and unregulated segments, to develop legislative or other recommendations to provide a more efficient and equitable system of State regulations for interstate motor carriers. Such recommendations shall be made to the Congress not later than 18 months after the date of enactment of this Act. Recommendations. Submittal to Congress.

POOLING ARRANGEMENTS

SEC. 20. (a) Section 11342(a) of title 49, United States Code, is amended by striking out "The Commission may" and inserting in lieu thereof "Except as provided in subsection (b) for agreements or combinations between or among motor common carriers of property, the Commission may".

(b) Section 11342 of title 49, United States Code, is amended by redesignating subsections (b), (c), and (d) (and any references thereto) as subsections (c), (d), and (e), respectively, and by inserting after subsection (a) the following new subsection:

"(b) Any motor common carrier of property may apply to the Commission for approval of an agreement or combination with another motor common carrier of property to pool or divide traffic or any services or any part of their earnings by filing such agreement or combination with the Commission not less than 50 days before its effective date. Prior to the effective date of the agreement or

combination, the Commission shall determine whether the agreement or combination is of major transportation importance and whether there is substantial likelihood that the agreement or combination will unduly restrain competition. If the Commission determines that neither of these two factors exists, it shall, prior to such effective date and without a hearing, approve and authorize the agreement or combination, under such rules and regulations as the Commission may issue, and for such consideration between such carriers and upon such terms and conditions as shall be found by the Commission to be just and reasonable. If the Commission determines either that the agreement or combination is of major transportation importance or that there is a substantial likelihood that the agreement or combination will unduly restrain competition, the Commission shall hold a hearing concerning whether the agreement or combination will be in the interest of better service to the public or of economy in operation and whether it will unduly restrain competition and shall suspend operation of such agreement or combination pending such hearing and final decision thereon. After such hearing, the Commission shall indicate to what extent it finds that the agreement or combination will be in the interest of better service to the public or of economy in operation and will not unduly restrain competition and if assented to by all the carriers involved, shall, to that extent, approve and authorize the agreement or combination, under such rules and regulations as the Commission may issue, and for such consideration between such carriers and upon such terms and conditions as shall be found by the Commission to be just and reasonable.".

Hearing.

MIXED LOADS

SEC. 21. (a) Section 10526(a)(6) of title 49, United States Code, is amended by striking out "a motor vehicle carrying, for compensation, only property and that property consists" and inserting in lieu thereof "transportation by motor vehicle".

Ante, p. 797.

(b)(1) Subchapter II of chapter 105 of title 49, United States Code, is amended by adding at the end thereof the following new section:

49 USC 10528.

"§ 10528. Mixed loads of regulated and unregulated property

"A motor carrier of property providing transportation exempt from the jurisdiction of the Commission under paragraph (6), (8), (10), (11), or (12) of section 10526(a) of this subchapter may transport property under such paragraph in the same vehicle and at the same time as property which the carrier is authorized to transport under a certificate issued under section 10922(b) of this subtitle or under a permit issued under section 10923 of this subtitle. Such transportation shall not affect the unregulated status of such exempt property or the regulated status of the property which the carrier is authorized to transport under such certificate or permit.".

Ante, pp. 797, 798.

Ante, p. 794.

Ante, pp. 799, 800.

(2) The analysis for subchapter II of chapter 105 of title 49, United States Code, is amended by adding at the end thereof the following:

"10528. Mixed loads of regulated and unregulated property.".

JOINT RATES AND THROUGH ROUTES

SEC. 22. (a) Section 10703(b) of title 49, United States Code, is amended by inserting ", II (insofar as motor carriers of property are concerned)," immediately after "subchapter I".

(b) Section 10705 of title 49, United States Code, is amended by redesignating subsections (b), (c), (d), (e), and (f) (and any references thereto) as subsections (c), (d), (e), (f), and (g), respectively, and by inserting after subsection (a) the following new subsection:

"(b)(1) The Interstate Commerce Commission may, and shall when it considers it desirable in the public interest, prescribe through routes, joint classifications, joint rates (including maximum or minimum rates or both), the division of joint rates, and the conditions under which those routes must be operated, for a motor common carrier of property providing transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title with another such carrier or with a water common carrier of property. 49 USC 10521.

"(2) The Commission may not require a motor common carrier of property, without its consent, to include in a through route substantially less than the entire length of its route and the route of any intermediate carrier which is operated in conjunction and under common management or control with such motor common carrier of property which lies between the termini of such proposed through routes (A) unless inclusion of such routes would make the through route unreasonably circuitous as compared with another practicable through route which could otherwise be established, or (B) unless the Commission finds that the through route proposed to be established is needed in order to provide adequate, more efficient, or more economic transportation. In prescribing through routes the Commission shall, so far as is consistent with the public interest, and subject to the preceding sentence, give reasonable preference to the carrier which originates the traffic.". Preference to carrier.

(c) Section 10705(c) of title 49, United States Code, as redesignated by subsection (b) of this section, is amended by inserting "or (b)" after "subsection (a)" in the first sentence and by striking out "or water carrier" in the second sentence and inserting in lieu thereof "carrier, water carrier, or motor common carrier of property".

(d) The first sentence of section 10705(e) of title 49, United States Code, as redesignated by subsection (b) of this section, is amended by striking out "a rail or water common carrier tariff" and inserting in lieu thereof "a tariff of a rail carrier, water common carrier, or motor common carrier of property".

(e) Subsection (f)(1) of section 10705 of title 49, United States Code, as redesignated by subsection (b) of this section, is amended by striking out "subsection (a) or (b)" and inserting in lieu thereof "subsection (a), (b), or (c)".

(f) Section 10705 of title 49, United States Code, is further amended by adding at the end thereof the following new subsection:

"(h) Any motor common carrier of property who is a party to a through route and joint rate, whether established by such carrier under section 10703 of this title or prescribed by the Commission under subsection (b) of this section, shall promptly pay divisions or make interline settlements, as the case may be, with other carriers which are parties to such through route and joint rate. In the event of undue delinquency in the settlement of such divisions or interline settlements, such through routes and joint rates may be suspended or canceled under rules prescribed by the Commission.". Division payments or interline settlements. 49 USC 10703.

(g) Section 10705(g) of title 49, United States Code, as redesignated by subsection (b) of this section, is amended by striking out "subsection (e)" and inserting in lieu thereof "subsection (f)".

(h) Section 10703(a)(4) of title 49, United States Code, is amended by adding at the end thereof the following new subparagraph:

Contracts.

"(E) A freight forwarder may enter into contracts with a rail carrier or with a water common carrier providing transportation subject to the Shipping Act, 1916 (46 U.S.C. 801 et seq.) or the Intercoastal Shipping Act, 1933 (46 U.S.C. 843-848). Not later than 180 days after the date of enactment of this subparagraph, the Commission shall promulgate regulations implementing the provisions of this subparagraph.".

Regulations.

TEMPORARY AUTHORITIES AND EMERGENCY TEMPORARY AUTHORITIES

SEC. 23. Section 10928 of title 49, United States Code, is amended by—

(1) inserting "(a)" before "Without";

(2) inserting "of passengers" after "motor carrier" each place such term appears; and

(3) adding at the end thereof the following new subsections:

49 USC 10321.
5 USC 551.

"(b)(1) Without regard to subchapter II of chapter 103 of this title and subchapter II of chapter 5 of title 5, the Commission, pursuant to such regulations as the Commission may issue, may grant a motor carrier of property temporary authority to provide transportation to a place or in an area having no motor carrier of property capable of meeting the immediate needs of the place or area. Unless suspended or revoked, the Commission may grant the temporary authority for not more than 270 days. A grant of temporary authority does not establish a presumption that permanent authority to provide transportation will be granted under this subchapter.

"(2) The Commission shall take final action upon an application filed under this subsection no later than 90 days after the date the application is filed with the Commission.

"(c)(1) Without regard to subchapter II of chapter 103 of this title and subchapter II of chapter 5 of title 5, the Commission, pursuant to such regulations as the Commission may issue, may grant a motor carrier of property emergency temporary authority to provide transportation to a place or in an area having no motor carrier of property capable of meeting the immediate needs of the place or area if the Commission determines that, due to emergency conditions, there is not sufficient time to process an application for temporary authority under subsection (b) of this section. Unless suspended or revoked, the Commission may grant the emergency temporary authority for not more than 30 days, and the Commission may extend such authority for a period of not more than 90 days. A grant of emergency temporary authority does not establish a presumption that permanent authority to provide transportation will be granted under this subchapter.

Time extension.

"(2) The Commission shall take final action upon an application filed under this subsection not later than 15 days after the date the application is filed with the Commission.".

COOPERATIVE ASSOCIATIONS

SEC. 24. (a) Section 10526(a)(5)(A)(ii) of title 49, United States Code, is amended by striking out "15 percent" and inserting in lieu thereof "25 percent".

(b)(1) Subchapter II of chapter 105 of title 49, United States Code, is amended by adding at the end thereof the following new section:

"§ 10529. Limited authority over cooperative associations

49 USC 10529.

"(a) Notwithstanding section 10526(a)(5) of this title, any cooperative association (as defined by section 15(a) of the Agricultural Marketing Act (12 U.S.C. 1141j(a)) or a federation of cooperative associations which is required to notify the Commission under such section 10526(a)(5) shall prepare and maintain such records relating to transportation provided by such association or federation, in such form, as the Commission may require by regulation to carry out the provisions of such section 10526(a)(5). The Commission or an employee designated by the Commission, may on demand and display of proper credentials—

Notification; recordkeeping.
49 USC 10526.

Inspection rights.

"(1) inspect and examine the lands, buildings, and equipment of such association or federation; and

"(2) inspect and copy any record of such association or federation.

"(b) Notwithstanding section 10526(a)(5) of this title, the Commission may require a cooperative association or federation of cooperative associations described in subsection (a) of this section to file reports with the Commission containing answers to questions about transportation provided by such association or federation.

Filing of reports.

"(c) The Commission may bring a civil action to enforce subsections (a) and (b) of this section or a regulation or order of the Commission issued under this section, when violated by a cooperative association or federation of cooperative associations described in subsection (a).

Civil action.

"(d)(1) A person required to make a report to the Commission, answer a question, or maintain a record under this section, or an officer, agent, or employee of that person, that (A) does not make the report, (B) does not specifically, completely, and truthfully answer the question, or (C) does not maintain the record in the form and manner prescribed by the Commission, is liable to the United States Government for a civil penalty of not more than $500 for each violation and for not more than $250 for each additional day the violation continues.

Noncompliance penalty.

"(2) Trial in a civil action under paragraph (1) of this subsection shall be in the judicial district in which (A) the cooperative association or federation of cooperative associations has its principal office, (B) the violation occurred, or (C) the offender is found. Process in the action may be served in the judicial district of which the offender is an inhabitant or in which the offender may be found.

"(e) A person, or an officer, employee, or agent of that person, that by any means knowingly and willfully tries to evade compliance with the provisions of this section shall be fined at least $200 but not more than $500 for the first violation and at least $250 but not more than $2,000 for a subsequent violation.

"(f) A person required to make a report to the Commission, answer a question, or maintain a record under this section, or an officer, agent, or employee of that person, that (1) willfully does not make that report, (2) willfully does not specifically, completely, and truthfully answer that question in 30 days from the date the Commission requires the question to be answered, (3) willfully does not maintain that record in the form and manner prescribed by the Commission, (4) knowingly and willfully falsifies, destroys, mutilates, or changes that report or record, (5) knowingly and willfully files a false report or record with the Commission under this section, (6) knowingly and willfully makes a false or incomplete entry in that record about a business related fact or transaction, or (7) knowingly and willfully maintains a record in violation of a regulation or order of the

Violations, penalties.

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Commission issued under this section, shall be fined not more than $5,000.".

(2) The analysis for subchapter II of chapter 105 of title 49, United States Code, is amended by adding at the end thereof the following:

"10529. Limited authority over cooperative associations.".

Repeal.

(c) Subsection (c) of section 11144 of title 49, United States Code, is hereby repealed.

PROCEDURAL REFORM

SEC. 25. (a) Section 10322 of title 49, United States Code, is amended to read as follows:

"§ 10322. Commission action and appellate procedure in non-rail proceedings

"(a) This section applies to a matter before the Interstate Commerce Commission over which the Commission has jurisdiction under chapter 105 of this title, other than a matter involving a rail carrier providing transportation subject to the jurisdiction of the Commission under subchapter I of such chapter. The deadlines set forth in this section do not apply to the following sections of this subtitle: 10525(c), 10708(b), 10922(h)(2), 10928, 11345a, and 11701(c).

49 USC 10501.

49 USC 10525, 10708, *ante*, pp. 796, 814, *post*, pp. 819, 818.

"(b)(1) Except as provided in paragraph (2) of this subsection, a division, individual commissioner, employee board, or an employee delegated under section 10305 of this title to make an initial decision in a matter related to a carrier (other than a rail carrier), or, in the case of a matter referred to a joint board under section 10341 of this title, such joint board—

Oral hearing; decisions.

49 USC 10305.

49 USC 10341.

"(A) shall, in any case in which an oral hearing is held or the Commission has found that an issue of general transportation importance is involved, complete all evidentiary proceedings related to the matter not later than the 180th day following institution of the proceeding and shall issue in writing the initial decision not later than the 270th day following institution of the proceeding; and

"(B) shall, in the case of all other proceedings subject to this section, issue in writing the initial decision by the 180th day following institution of the proceeding.

If evidence is submitted in writing or testimony is taken at an oral hearing, the initial decision shall include specific findings of fact, specific and separate conclusions of law, an order, and justification for the findings of fact, conclusions of law, and order.

"(2) In any case involving an application for authority to provide motor carrier transportation incidental to trailer-on-flatcar or container-on-flatcar service by rail under subchapter II of chapter 109 of this subtitle, a final decision on such application shall be issued in writing not later than the 180th day following the date such application is filed with the Commission.

49 USC 10921.

Publication in Federal Register.

"(3) At the earliest practicable time after the filing of an application for authority under subchapter II of chapter 109 of this title, the Commission shall publish in the Federal Register notice of the filing of such application.

Waiver.

"(c) The Commission, or a division designated by the Commission, may waive the requirement for an initial decision under subsection (b) of this section and may require the matter to be considered by the Commission or such division on finding that the matter involves a question of Commission policy, a new or novel issue of law, or an issue of general transportation importance or that waiver of the initial

decision is required for the timely execution of the Commission's functions. If the requirement for an initial decision is waived, a final decision shall be issued in writing within the time limit established for the issuance of the initial decision under subsection (b) of this section.

"(d) In a proceeding under this section in which the parties have had at least an opportunity to submit evidence in written form, such parties shall have an opportunity to present arguments to the initial decisionmaker. The decisionmaker shall determine whether the arguments should be presented orally or in writing and may require that written arguments be submitted simultaneously with written submissions of evidence and that oral arguments be presented at an oral hearing. Upon issuance of an initial decision under this section, copies of such decision shall be served on the parties and submitted to the Commission.

Initial decisions.

"(e) An initial decision under this section becomes a final decision on the 20th day after it is served on the interested parties, unless—

"(1) an interested party files an appeal during the 20-day period or, if authorized by the Commission or division designated by the Commission, by the end of an additional period of not more than 20 days; or

"(2) the Commission stays or postpones under subsection (f)(1) of this section the initial decision not later than the 20th day following the date it is served on the parties.

Final decision review.

"(f)(1) Before an initial decision under this section becomes a final decision, the Commission or a division or an employee board designated by the Commission, may review the initial decision on its own initiative and shall review an initial decision if a timely appeal is filed under subsection (e) of this section.

"(2) An initial decision may be reviewed on the record on which it is based or by a further hearing. If an initial decision is reviewed, it shall be stayed pending final determination of the matter and it becomes a final decision only after the final determination is made. If a timely appeal is filed under subsection (e) of this section, the final determination shall be made not later than the 50th day after the appeal is filed. If an initial decision under this section is reviewed by the Commission or a division or an employee board designated by the Commission on its own initiative, the final decision shall be made not later than the 50th day after initiation of such review.

Appeals.

"(3) Notwithstanding the provisions of paragraph (2) of this subsection, if an initial decision under this section is reviewed by further hearing, such review shall be completed, and a final decision made, not later than the 120th day following the date the further hearing is granted.

"(4) Review of, or appeal from, an initial decision under this section shall be conducted under section 557 of title 5. The Commission may prescribe rules limiting and defining the issues and pleadings on review under subsection (b) of such section.

Commission action, proceeding reopening and reconsideration.

"(g)(1) The Commission may, at any time on its own initiative because of material error, new evidence, or substantially changed circumstances—

"(A) reopen a proceeding;

"(B) grant rehearing, reargument, or reconsideration of an action of the Commission; and

"(C) change an action of the Commission.

An interested party may petition to reopen and reconsider an action of the Commission under this paragraph under regulations of the Commission.

"(2) The Commission may grant a rehearing, reargument, or reconsideration of an action of the Commission that was taken by a division or an employee board designated by the Commission if it finds that—

"(A) the action involved a matter of general transportation importance; or

"(B) the action would be affected materially because of clear and convincing new evidence or changed circumstances.

An interested party may petition for rehearing, reargument, or reconsideration of an action of the Commission under this paragraph under regulations of the Commission. The Commission may stay an action pending a final determination under this paragraph. The Commission shall complete reconsideration and take final action by the 120th day after the petition is granted.

Stay of Commission action.

"(3) If the Commission initiates any action under paragraph (1) of this subsection, final disposition under such paragraph shall be made not later than the 120th day following the date action is initiated.

Effective date.

"(h) A final decision under this section shall be effective on the date it is served on the parties, and a civil action to enforce, enjoin, suspend, or set aside the decision may be filed after that date.

Time period, extension.

"(i) In extraordinary circumstances, the Commission may extend a time period established by this section, except that the total of all such extensions with respect to any matter subject to the provisions of this section shall not exceed 90 days.".

Repeal.

(b) Section 10323 of title 49, United States Code, is hereby repealed.

(c)(1) Section 10324(a) of title 49, United States Code, is amended by striking out the last sentence.

(2) Section 10324(c) of title 49, United States Code, is amended to read as follows:

49 USC 10327.

"(c) An action of the Commission under section 10327 of this title is enforceable, unless the Commission stays or postpones such action.".

Repeal.

(d) Section 10325 of title 49, United States Code, is hereby repealed.

(e) Section 10327(a) of title 49, United States Code, is amended by striking out "Notwithstanding sections 10322, 10323, and 10324(c) of this title, this" and inserting in lieu thereof "This".

(f) The index for subchapter II of chapter 103 of title 49, United States Code, is amended by striking out the items relating to sections 10322, 10323, 10324, and 10325 and inserting in lieu thereof the following:

"10322. Commission action and appellate procedure in non-rail proceedings.
"10323. Repealed.
"10324. Commission action.
"10325. Repealed.".

ENFORCEMENT

SEC. 26. (a) Section 11701(c) of title 49, United States Code, is amended by striking "related to a rail carrier".

(b) Section 11707(e) of title 49, United States Code, is amended by adding the following at the end thereof: "For the purposes of this subsection—

"(1) an offer of compromise shall not constitute a disallowance of any part of the claim unless the carrier, in writing, informs the claimant that such part of the claim is disallowed and provides reasons for such disallowance; and

"(2) communications received from a carrier's insurer shall not constitute a disallowance of any part of the claim unless the insurer, in writing, informs the claimant that such part of the claim is disallowed, provides reasons for such disallowance, and informs the claimant that the insurer is acting on behalf of the carrier.".

(c) Section 1114 of title 18, United States Code, is amended by inserting "Interstate Commerce Commission," after "Consumer Product Safety Commission,".

MERGER PROCEDURE

SEC. 27. (a) Subchapter III of chapter 113 of title 49, United States Code, is amended by inserting after section 11345 the following new section:

"§ 11345a. Consolidation, merger, and acquisition of control: motor carrier of property procedure

49 USC 11345a.

"(a) If a motor carrier of property providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter II of chapter 105 of this title is involved in a proposed transaction under section 11343 of this title, this section and section 11344 of this title also apply to the transaction. The Commission shall publish notice of the application in the Federal Register by the end of the 30th day after the application is filed with the Commission. However, if the application is incomplete, the Commission shall reject it by the end of that period. The order of rejection is a final decision of the Commission under section 10322 of this title.

49 USC 10521.

49 USC 11343, 11344.

Publication in Federal Register.

Ante, p. 816.

"(b) Written comments about an application may be filed with the Commission within 45 days after notice of the application is published under subsection (a) of this section.

"(c) The Commission must conclude evidentiary proceedings by the 240th day after the date of publication of notice under subsection (a) of this section. The Commission must issue a final decision by the 180th day after the date it concludes the evidentiary proceedings. In extraordinary circumstances, the Commission may extend a time period established by this section, except that the total of all such extensions with respect to any application shall not exceed 90 days.

"(d) The Commission may waive the requirement that an initial decision be made under section 10322 of this title and make a final decision itself when it determines that action is required for the timely execution of its functions under this subchapter or that an application governed by this section is of major transportation importance. The decision of the Commission under this subsection is a final decision under section 10322 of this title.".

Waiver.

(b) The analysis of subchapter III of chapter 113 of title 49, United States Code, is amended by inserting after

"11345. Consolidation, merger, and acquisition of control: rail carrier procedure."

the following:

"11345a. Consolidation, merger, and acquisition of control: motor carrier of property procedure.".

SMALL COMMUNITY SERVICE STUDY

SEC. 28. (a) The Interstate Commerce Commission shall make a full investigation and study of motor carrier service to small communities (with emphasis on communities of population 5,000 and under), and

Report to President and Congress.

shall submit a report, including legislative or other recommendations, to the President and the Congress not later than September 1, 1982.

Contents of report.

(b) The report shall include an analysis of the common carrier obligation to provide service to small community shippers and an assessment of whether the Commission is enforcing such obligation. If the Commission determines that it is not fully enforcing such obligation, then it shall explain why not, and detail what steps it would need to take and what resources it would have to have in order to enforce such obligation. The report shall also describe the extent to which motor carriers were providing service to small communities prior to the date of enactment of this Act, and evaluate the effect of this Act on such service. The report shall include specific recommendations regarding ways to ensure the provision and maintenance of motor carrier service to small communities.

Data for report.

(c)(1) To develop data for its report, the Commission shall monitor—

(A) complaints to determine the number and kinds of complaints by small community shippers; and

(B) applications for new and expanded service to determine whether motor carriers are seeking to serve small community shippers.

Additional data.

(2) The Commission may develop additional data by any other means, including surveys of small community shippers and motor carriers providing service to such communities to determine the reliability of such service and the availability of quality and price options. The Commission is authorized to enter into contracts or agreements with public and private organizations to carry out such surveys of shippers and motor carriers.

Contracts.

Appropriation authorization.

(d) There is hereby authorized to be appropriated for fiscal years 1981 and 1982 such sums as are necessary to carry out the provisions of this section.

INSURANCE

SEC. 29. Section 10927(a)(1) of title 49, United States Code, is amended by striking out "approved by the Commission." and inserting in lieu thereof "approved by the Commission, in an amount not less than such amount as the Secretary of Transportation prescribes pursuant to, or as is required by, the provisions of section 30 the Motor Carrier Act of 1980.".

Infra.

MINIMUM FINANCIAL RESPONSIBILITY FOR MOTOR CARRIERS

Regulations. 49 USC 10927 note.

SEC. 30. (a)(1) The Secretary of Transportation shall establish regulations to require minimal levels of financial responsibility sufficient to satisfy liability amounts to be determined by the Secretary covering public liability, property damage, and environmental restoration for the transportation of property for hire by motor vehicle in the United States from a place in one State to a place in another State, from a place in a State to another place in such State through a place outside of such State, or between a place in a State and a place outside the United States.

(2) The minimal level of financial responsibility established by the Secretary under paragraph (1) of this subsection for any vehicle shall not be less than $750,000, except that the Secretary, by regulation, may reduce such amount (but not to an amount less than $500,000) for any class of vehicles or operations for the two-year period beginning on the effective date of the regulations issued under such

paragraph or any part of such period if the Secretary finds that such reduction will not adversely affect public safety and will prevent a serious disruption in transportation service.

(3) If, at the end of the one-year period beginning on the date of enactment of this Act, the Secretary has not established regulations to require minimal levels of financial responsibility as required by paragraph (1) of this subsection for any class of transportation of property for hire by motor vehicle from a place in a State to a place in another State or from a place in a State to another place in such State through another State, the levels of financial responsibility for such class of transportation shall be the $750,000 amount set forth in paragraph (2) of this subsection, until such time as the Secretary, by regulation, changes such amount under this subsection. Notwithstanding the provisions of such paragraph, the Secretary may only make reductions in such amount under such paragraph for the two-year period beginning on the 366th day following the date of enactment of this Act or any part of such period.

Amount reductions.

(b)(1) The Secretary shall establish regulations to require minimal levels of financial responsibility sufficient to satisfy liability amounts to be determined by the Secretary covering public liability, property damage, and environmental restoration for the transportation of hazardous materials (as defined by the Secretary), oil or hazardous substances (as defined by the Administrator of the Environmental Protection Agency), or hazardous wastes (as defined by the Administrator of the Environmental Protection Agency) by motor vehicle in interstate or intrastate commerce.

Regulations.

(2) The minimal level of financial responsibility established by the Secretary under paragraph (1) of this subsection for any vehicle transporting in interstate or intrastate commerce—

Hazardous substances.

(A) hazardous substances (as defined by the Administrator of the Environmental Protection Agency) in cargo tanks, portable tanks, or hopper-type vehicles, with capacities in excess of 3,500 water gallons,

(B) in bulk class A explosives, poison gas, liquefied gas, or compressed gas, or

(C) large quantities of radioactive materials,

shall not be less than $5,000,000, except that the Secretary, by regulation, may reduce such amount (but not to an amount less than $1,000,000) for any class of vehicles or operations for the two-year period beginning on the effective date of the regulations issued under this subsection or any part of such period if the Secretary finds that such reduction will not adversely affect public safety and will prevent a serious disruption in transportation service.

Amounts, limitation.

(3) The minimal level of financial responsibility established by the Secretary under paragraph (1) of this subsection for any vehicle transporting in interstate or intrastate commerce any material, oil, substance, or waste not subject to the provisions of paragraph (2) of this subsection shall not be less than $1,000,000, except that (A) the Secretary, by regulation, may reduce such amount (but not to an amount less than $500,000) for any class of vehicles or operations for the two-year period beginning on the effective date of the regulations issued under this subsection or any part of such period if the Secretary finds that such reduction will not adversely affect public safety and will prevent a serious disruption in transportation service, and (B) in the case of any class of vehicles transporting any such material, oil, substance, or waste in intrastate commerce other than in bulk, the Secretary, by regulation, may reduce such amount if the

Secretary finds that such reduction will not adversely affect public safety.

(4) If, at the end of the one-year period beginning on the date of enactment of this Act, the Secretary has not established regulations to require minimal levels of financial responsibility as required by paragraph (1) of this subsection for any class of transportation of hazardous materials, oil, hazardous substances, or hazardous wastes by motor vehicle in interstate or intrastate commerce, the levels of financial responsibility for such class of transportation shall be the $5,000,000 amount set forth in paragraph (2) of this subsection or the $1,000,000 amount set forth in paragraph (3) of this subsection, as the case may be, until such time as the Secretary, by regulation, changes such amount under this subsection. Notwithstanding the provisions of paragraph (2) or (3)(A) of this subsection, the Secretary may only make reductions in such amount under such paragraph for the two-year period beginning on the 366th day following the date of enactment of this Act or any part of such period.

Amount reductions.

(c) Financial responsibility may be established under this section by any one or any combination of the following methods acceptable to the Secretary: evidence of insurance, guarantee, surety bond, or qualification as a self-insurer. Any bond filed shall be issued by a bonding company authorized to do business in the United States. The Secretary shall establish, by regulation, methods and procedures to assure compliance with this section.

Violation, determination of penalty amount.

(d)(1) Any person (except an employee who acts without knowledge) who is determined by the Secretary, after notice and opportunity for a hearing, to have knowingly violated this section or a regulation issued under this section shall be liable to the United States for civil penalty of not more than $10,000 for each violation, and if any such violation is a continuing one each day of violation constitutes a separate offense. The amount of any such penalty shall be assessed by the Secretary by written notice. In determining the amount of such penalty, the Secretary shall take into account the nature, circumstances, extent, and gravity of the violation committed and, with respect to the person found to have committed such violation, the degree of culpability, any history of prior offenses, ability to pay, effect on ability to continue to do business, and such other matters as justice may require.

Civil penalty, recovery.

(2) Such civil penalty may be recovered in an action brought by the Attorney General on behalf of the United States in the appropriate district court of the United States or, prior to referral to the Attorney General, such civil penalty may be compromised by the Secretary. The amount of such penalty, when finally determined (or agreed upon in compromise), may be deducted from any sums owed by the United States to the person charged. All penalties collected under this subsection shall be deposited in the Treasury of the United States as miscellaneous receipts.

Report to Congress.

(e) Not later than one year after the date of enactment of this Act, the Secretary shall report to Congress upon the regulations issued under this section. The Secretary shall describe the various levels of financial responsibility mandated and the rationale for selecting the final limits. The Secretary shall also include an estimate of the impact of the regulations upon the safety of motor vehicle transportation, the economic condition of the motor carrier industry (including, but not limited to, small and minority motor carriers and independent owner-operators), and the ability of the insurance industry to provide the designated coverage. The Secretary shall make recom-

Recommendations for further legislation.

mendations with respect to the need for further legislation related to levels of financial responsibility, including to what extent, if any, minimum statutory levels should be modified.

(f) This section shall only apply to motor vehicles having a gross vehicle weight rating of 10,000 pounds or more.

(g) For purposes of this section, the term— "Secretary."

(1) "Secretary" means the Secretary of Transportation; and "State."

(2) "State" (including its use in the terms "interstate" and "intrastate") means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Commonwealth of the Northern Marianas.

IMPOSITION OF STATE TAX ON MOTOR CARRIER TRANSPORTATION PROPERTY

SEC. 31. (a)(1) Chapter 115 of title 49, United States Code, is amended by inserting after section 11503 the following new section:

"§ 11503a. Tax discrimination against motor carrier transportation property 49 USC 11503a.

Definitions.

"(a) In this section—

"(1) 'assessment' means valuation for a property tax levied by a taxing district;

"(2) 'assessment jurisdiction' means a geographical area in a State used in determining the assessed value of property for ad valorem taxation;

"(3) 'motor carrier transportation property' means property, as defined by the Interstate Commerce Commission, owned or used by a motor carrier of property providing transportation in interstate commerce whether or not such transportation is subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title; and 49 USC 10521.

"(4) 'commercial and industrial property' means property, other than transportation property and land used primarily for agricultural purposes or timber growing, devoted to a commercial or industrial use and subject to a property tax levy.

Prohibited discriminatory acts.

"(b) The following acts unreasonably burden and discriminate against interstate commerce and a State, subdivision of a State, or authority acting for a State or subdivision of a State may not do any of them:

"(1) assess motor carrier transportation property at a value that has a higher ratio to the true market value of the motor carrier transportation property than the ratio that the assessed value of other commercial and industrial property in the same assessment jurisdiction has to the true market value of the other commercial and industrial property;

"(2) levy or collect a tax on an assessment that may not be made under paragraph (1) of this subsection;

"(3) levy or collect an ad valorem property tax on motor carrier transportation property at a tax rate that exceeds the tax rate applicable to commercial and industrial property in the same assessment jurisdiction.

"(c) Notwithstanding section 1341 of title 28 and without regard to the amount in controversy or citizenship of the parties, a district court of the United States has jurisdiction, concurrent with other jurisdiction of courts of the United States and the States, to prevent a

Granting of relief, conditions.

violation of subsection (b) of this section. Relief may be granted under this subsection only if the ratio of assessed value to true market value of motor carrier transportation property exceeds by at least 5 percent, the ratio of assessed value to true market value of other commercial and industrial property in the same assessment jurisdiction. The burden of proof in determining assessed value and true market value is governed by State law. If the ratio of the assessed value of other commercial and industrial property in the assessment jurisdiction to the true market value of all other commercial and industrial property cannot be determined to the satisfaction of the district court through the random-sampling method known as a sales assessment ratio study (to be carried out under statistical principles applicable to such a study), the court shall find, as a violation of this section—

Violations.

"(1) an assessment of the motor carrier transportation property at a value that has a higher ratio to the true market value of the motor carrier transportation property than the assessment value of all other property subject to a property tax levy in the assessment jurisdiction has to the true market value of all other commercial and industrial property; and

"(2) the collection of ad valorem property tax on the motor carrier transportation property at a tax rate that exceeds the tax ratio rate applicable to taxable property in the taxing district.".

(2) The chapter analysis of chapter 115 of title 49, United States Code, is amended by inserting after

"11503. Tax discrimination against rail transportation property."

the following:

"11503a. Tax discrimination against motor carrier transportation property.".

(b) Section 10521(b)(4) of title 49, United States Code, is amended by inserting "section 11503a and" after "in".

RATES FOR TRANSPORTATION OF RECYCLABLE MATERIALS

SEC. 32. (a) Subchapter II of chapter 107 of title 49, United States Code, is amended by adding at the end thereof the following new section:

49 USC 10733.

"§ 10733. Rates for transportation of recyclable materials

"(a) A motor carrier of property providing transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title may provide transportation of recyclable materials without charge or at a reduced rate.

49 USC 10521.

"Recyclable materials."

"(b) In this section, 'recyclable materials' means waste products for recycling or reuse in the furtherance of recognized pollution control programs.".

(b) The analysis for subchapter II of chapter 107 of title 49, United States Code, is amended by adding at the end thereof the following:

"10733. Rates for transportation of recyclable materials.".

BUSINESS ENTERTAINMENT EXPENSES

SEC. 33. (a) Subchapter III of chapter 107 of title 49, United States Code, is amended by adding at the end thereof the following new section:

"§ 10751. Business entertainment expenses

49 USC 10751.

"(a) Any business entertainment expense incurred by a person providing transportation subject to the jurisdiction of the Commission under chapter 105 of this title (other than transportation by rail) shall not constitute a violation of section 10741 or 10761 of this title if such expense would not be unlawful if incurred by a person or corporation not subject to such jurisdiction of the Commission.

49 USC 10501 *et seq.*
Infra.

"(b) Any business entertainment expense authorized under this section that is paid or incurred by a person providing transportation subject to the jurisdiction of the Commission under chapter 105 of this title (other than transportation by rail) shall not be taken into account in determining the cost of service or the rate base for purposes of this title.

"(c) Within 180 days after the date of enactment of the Motor Carrier Act of 1980, the Commission shall institute a rulemaking proceeding pursuant to which it shall issue rules establishing appropriate standards and guidelines for authorized business entertainment expenses under this section. Such standards and guidelines shall be consistent with standards and guidelines applicable under existing law to persons not subject to this subtitle, including competing unregulated surface transportation carriers.".

Standards and guidelines.
Ante, p. 793.

(b) The analysis for chapter 107 of title 49, United States Code, is amended by inserting immediately after the item relating to section 10750 the following new item:

"10751. Business entertainment expenses.".

(c) Section 10761 of title 49, United States Code, is amended by adding at the end thereof the following new subsection:

"(c) This section shall not apply to expenses authorized under section 10751 of this title.".

(d) Section 10741 of title 49, United States Code, is amended by adding at the end thereof the following new subsection:

"(e) This section shall not apply to expenses authorized under section 10751 of this title.".

COORDINATED TRANSPORTATION SERVICES

SEC. 34. (a) Section 10922 of title 49, United States Code, is amended by adding the following new subsection:

Ante, p. 796.

"(j) A motor common carrier of property may deliver to or receive from a rail carrier a trailer moving in trailer-on-flat-car service at any point on the route of the rail carrier if the motor carrier is authorized to serve the origin and destination points of the traffic.".

(b) Section 10923 of title 49, United States Code, is amended by adding the following new subsection:

Ante, p. 800.

"(e) A motor contract carrier of property may deliver to or receive from a rail carrier a trailer moving in trailer-on-flat-car service at any point on the route of the rail carrier if the motor carrier is authorized to serve the origin and destination points of the traffic.".

JOB REFERRAL

SEC. 35. The Secretary of Labor shall establish, maintain, and periodically publish a comprehensive list of jobs available with motor carriers of property holding certificates or permits issued by the Interstate Commerce Commission under subchapter II of chapter 109 of title 49, United States Code. Such list shall include that information and detail, such as job descriptions and required skills, as the

List of available jobs, publication.
49 USC 10921 note.
49 USC 10921.

Employment aid.

Secretary deems relevant and necessary. In addition to publishing the list, the Secretary shall assist a person previously employed by any such carrier in finding other employment. In order to carry out this section, the Secretary may require regulated motor carriers of property to file reports, data, and other information.

ADMINISTRATION

Rent payment.

SEC. 36. Section 10344(f) of title 49, United States Code, is amended by adding at the end thereof the following new sentence: "The Commission shall pay the rent for any space or facilities assigned under this subsection at rates determined in accordance with section 210(j) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 490(j))."

Approved July 1, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1069 accompanying H.R. 6418 (Comm. on Public Works and Transportation).
SENATE REPORT No. 96-641 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Apr. 15, considered and passed Senate.
June 19, H.R. 6418 considered and passed House; passage vacated and S. 2245, amended, passed in lieu.
June 20, Senate concurred in House amendments.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 16, No. 27:
July 1, Presidential statement.

Public Law 96-297
96th Congress

Joint Resolution

To authorize the Vietnam Veterans Memorial Fund, Inc., to establish a memorial.

July 1, 1980
[S.J. Res. 119]

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Vietnam Veterans Memorial Fund, Inc., a nonprofit corporation organized and existing under the laws of the District of Columbia, is authorized to establish a memorial on public grounds in West Potomac Park in the District of Columbia, in honor and recognition of the men and women of the Armed Forces of the United States who served in the Vietnam war.

Vietnam Veterans Memorial Fund, Inc., establishment.
16 USC 431 note.

Site selection.

SEC. 2. (a) The Secretary of the Interior, in consultation with the Vietnam Veterans Memorial Fund, Inc., is authorized and directed to select with the approval of the Commission of Fine Arts and the National Capital Planning Commission a suitable site of approximately two acres in size located in the area of West Potomac Park known as Constitution Gardens in the District of Columbia: *Provided,* That if subsurface soil conditions prevent the engineering of a feasible foundation system for the memorial in a location in that area, then the Secretary of the Interior, in consultation with the Vietnam Veterans Memorial Fund, Inc., is authorized and directed to select a suitable site of approximately two acres in size located in an area of West Potomac Park north of Independence Avenue other than Constitution Gardens.

Design plans.

(b) The design and plans for such memorial shall be subject to the approval of the Secretary of the Interior, the Commission of Fine Arts, and the National Capital Planning Commission: *Provided,* That if the Secretary of the Interior, the Commission of Fine Arts, or the National Capital Planning Commission fails to report his or its approval of or specific objection to such design and plans within ninety days of their submission, his or its approval shall be deemed to be given.

Expenses.

(c) Neither the United States nor the District of Columbia shall be put to any expense in the establishment of the memorial.

Termination of authority.

SEC. 3. The authority conferred pursuant to this resolution shall lapse unless (1) the establishment of such memorial is commenced within five years from the date of enactment of this resolution, and (2) prior to groundbreaking for actual construction on the site, funds are certified available in an amount sufficient, in the judgment of the Secretary of the Interior based upon the approved design and plans for the memorial, to insure completion of the memorial.

Memorial maintenance.

SEC. 4. The maintenance and care of the memorial established under the provisions of this resolution shall be the responsibility of the Secretary of the Interior.

Approved July 1, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1129 (Comm. of Conference).
SENATE REPORTS: No. 96-663 (Comm. on Energy and Natural Resources) and No. 96-832 (Comm. of Conference).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Apr. 30, considered and passed Senate.
May 20, considered and passed House, amended.
June 27, House agreed to conference report.
June 30, Senate agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 16, No. 27:
July 1, Presidential statement.

Public Law 96-298
96th Congress

An Act

To amend the Internal Revenue Code of 1954 to provide a three-month extension of the taxes which are transferred to the Airport and Airway Trust Fund.

July 1, 1980
[H.R. 7477]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Airport and Airway Trust Fund.
Taxes, three-month extension.
26 USC 4041.

SECTION 1. EXTENSION OF TAXES.

(a) TAX ON FUEL USED IN NONCOMMERCIAL AVIATION.—Paragraph (5) of section 4041(c) of the Internal Revenue Code of 1954 (relating to termination of tax on fuel for noncommercial aviation) is amended by striking out "July 1, 1980" and inserting in lieu thereof "October 1, 1980".

(b) TAX ON TRANSPORTATION BY AIR.—Sections 4261(e) and 4271(d) of such Code are each amended by striking out "June 30, 1980" and inserting in lieu thereof "September 30, 1980".

26 USC 4261, 4271.

(c) TAX ON USE OF AIRCRAFT.—

26 USC 4491.

(1) IN GENERAL.—Subsection (e) of section 4491 of such Code (relating to termination of tax on use of aircraft) is amended by striking out "July 1, 1980" and inserting in lieu thereof "October 1, 1980".

(2) TRANSITIONAL RULE.—For the period beginning on July 1, 1980, and ending on October 1, 1980—

26 USC 4491 note.

(A) subsection (a) of section 4491 of such Code shall be applied by substituting "$6.25" for "$25", "½ cent" for "2 cents", and "⅞ cent" for "3½ cents", and

(B) such section 4491 shall be applied by treating such period as a year.

(3) POSTPONEMENT OF DUE DATE FOR FILING RETURN.—The due date for filing any return of the tax imposed by section 4491 of the Internal Revenue Code of 1954 with respect to any use after June 30, 1980, shall not be earlier than October 31, 1980.

26 USC 4491 note.

(d) EXTENSION OF AIRPORT AND AIRWAY TRUST FUND.—Subsection (b) of section 208 of the Airport and Airway Revenue Act of 1970 is amended by striking out "July 1, 1980" each place it appears and inserting in lieu thereof "October 1, 1980".

49 USC 1742.

Approved July 1, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1077 (Comm. on Ways and Means).
CONGRESSIONAL RECORD, Vol. 126 (1980):
June 16, 17, considered and passed House.
June 28, 30, considered and passed Senate.

Public Law 96-299
96th Congress

Joint Resolution

July 2, 1980
[S.J. Res. 115]

Designating July 1980 as "National Porcelain Art Month".

Whereas the art of painting on porcelain requires great skill, intensive training, and great artistic ability, and produces works of beauty; and

Whereas throughout history, the art of porcelain painting has provided a medium for the preservation of history and culture, and further, has been recognized as a fine art by all of the world's great civilization; and

Whereas growing thousands of American artists have studied, explored, and enhanced the historic skills of porcelain painting, adding immeasurably to the cultural enrichment of our Nation; and

Whereas the efforts of these artists bring rich beauty and expanded dimensions to our national culture for the benefit and enrichment of the lives of all citizens: Now, therefore, be it

National Porcelain Art Month. Designation.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That July 1980 is designated as "National Porcelain Art Month", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such month with appropriate ceremonies and activities.

Approved July 2, 1980.

LEGISLATIVE HISTORY:

CONGRESSIONAL RECORD, Vol. 126 (1980):
June 25, considered and passed Senate.
June 27, considered and passed House.

Public Law 96-300
96th Congress

Joint Resolution

Extending the reporting date of the National Commission on Air Quality.

July 2, 1980
[S.J. Res. 188]

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 323 of the Clean Air Act is amended by—

National Commission on Air Quality, reporting date, extension. 42 USC 7623.

(1) striking out the first two sentences of subsection (f) (relating to certain interim reporting dates for the National Commission on Air Quality);

(2) striking out the words "at the same time as required for the report of the Commission concerning such subsection" in the next to last sentence of subsection (f);

(3) striking out the first two sentences of subsection (g) and inserting in lieu thereof the following: "Not later than March 1, 1981, a report shall be submitted containing the results of all Commission studies and investigations under this section, together with any appropriate recommendations. The Commission shall cease to exist—

"(1) on March 1, 1981, if the report is not submitted in accordance with the preceding sentence on the date specified in the preceding sentence; or

"(2) on such date (but not later than May 1, 1981) as may be determined by the Commission, by order if the report is submitted in accordance with the preceding sentence on the date specified in such preceding sentence."; and

(4) redesignating subsection (j) as (h) and by adding the following new subsection at the end thereof:

Staff's pay.

"(i) The Commission may appoint and fix the pay of such staff as it deems necessary.".

42 USC 7624.

(b) Section 324 of such Act is amended by striking out the last sentence thereof.

Repeal. 42 USC 7623.

(c) Effective on the date on which the National Commission on Air Quality ceases to exist pursuant to section 323(g) of the Clean Air Act, section 323 of the Clean Air Act is repealed and sections 324, 325, 326, and 327 of such Act are redesignated as sections 323, 324, 325, and 326 respectively.

42 USC 7624, 7625, 7625a, 7626.

(d) Nothing in any other authority of law shall be construed to authorize or permit the extension of the National Commission on Air Quality pursuant to any Executive order or other Executive or agency action.

Extension of Commission, prohibition. 42 USC 7623 note.

Approved July 2, 1980.

LEGISLATIVE HISTORY:

SENATE REPORT No. 96-836 (Comm. on Environment and Public Works).
CONGRESSIONAL RECORD, Vol. 126 (1980):
June 26, considered and passed Senate.
June 27, considered and passed House.

79-194 O—81—pt. 1——56 : QL3

Public Law 96-301
96th Congress

An Act

July 2, 1980
[H.R. 5751]

Archeological resources in southwestern Colorado, protection.

To more adequately protect archeological resources in southwestern Colorado.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding the limitation on appropriations contained in section 7 of the Act of June 27, 1960, as amended (74 Stat. 220; 16 U.S.C. 469–469c), effective October 1, 1980, the Secretary of the Interior is authorized to expend from funds appropriated pursuant to the authorizations contained in the Act of September 30, 1968 (82 Stat. 897; 43 U.S.C. 620a–1), entitled "The Colorado River Basin Project Act", such sums as are necessary for the survey, recovery, protection, preservation, and display of archeological resources in the area of the Animas-LaPlata and Dolores projects of the United States Water and Power Resources Service: *Provided,* That such expenditures shall not exceed 4 per centum of the total amount authorized to be appropriated for such projects, and shall be considered nonreimbursable project costs.

Approved July 2, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-826 (Comm. on Interior and Insular Affairs).
CONGRESSIONAL RECORD, Vol. 126 (1980):
May 18, considered and passed House.
June 26, considered and passed Senate.

Public Law 96-302
96th Congress

An Act

To provide authorizations for the Small Business Administration, and for other purposes.

July 2, 1980
[S. 2698]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Small Business Administration, authorizations.

TITLE I—AUTHORIZATIONS AND MISCELLANEOUS AMENDMENTS

PART A—PROGRAM LEVELS AND AUTHORIZATIONS

SEC. 101. Section 20 of the Small Business Act is amended by adding at the end thereof the following new subsections: 15 USC 631 note.

"(h) The following program levels are authorized for fiscal year 1981:

"(1) For the programs authorized by section 7(a) of this Act, the Administration is authorized to make $300,000,000 in direct and immediate participation loans, and $4,000,000,000 in deferred participation loans. 15 USC 636, *post*, p. 852.

"(2) For the programs authorized by section 7(h) of this Act, the Administration is authorized to make $25,000,000 in direct and immediate participation loans and $12,000,000 in guaranteed loans.

"(3) For the programs authorized by section 7(i) of this Act, the Administration is authorized to make $76,000,000 in direct and immediate participation loans and $90,000,000 in guaranteed loans.

"(4) For the programs authorized by section 7(l) of this Act, the Administration is authorized to make $45,000,000 in direct and immediate participation loans and $33,000,000 in guaranteed loans.

"(5) For the programs authorized by sections 501, 502, and 503 of the Small Business Investment Act of 1958, the Administration is authorized to make $55,000,000 in direct and immediate participation loans and $115,000,000 in guaranteed loans and guarantees of debentures. 15 USC 695, 696, *post*, p. 837.

"(6) For the programs authorized by title III of the Small Business Investment Act of 1958, the Administration is authorized to make $42,000,000 in direct purchase of debentures and preferred securities, and to make $228,000,000 in guarantees of debentures. 15 USC 681.

"(7) For the programs authorized in part B of title IV of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed $2,530,000,000. 15 USC 694a.

"(8) For the programs authorized by sections 7(b)(3) through 7(b)(9) and 7(g) of this Act, the Administration is authorized to enter into $110,000,000 in loans, guarantees, and other obligations or commitments. 15 USC 636, *post*, p. 843.

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15 USC 694 1, 694 2

"(9) For the programs authorized by sections 404 and 405 of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed $110,000,000.

93 Stat. 118. 15 USC 636, *post*, p. 843

"(10) There are hereby authorized to be appropriated such sums as may be necessary and appropriate for the carrying out of the provisions and purposes, including administrative expenses, of sections 7(b) and 7(g) of this Act; and there are authorized to be transferred from the disaster loan revolving fund such sums as may be necessary and appropriate for such administrative expenses.

Salaries and expenses

"(i) There are authorized to be appropriated to the Administration for fiscal year 1981, $1,187,000,000. Of such sum, $865,000,000 shall be available for the purpose of carrying out the programs referred to in subsection (h), paragraphs (1) through (6); $76,000,000 shall be available for the purpose of carrying out the provisions of section 412 of the Small Business Investment Act of 1958; $4,000,000 shall be available for the purpose of carrying out the provisions of section 403 of the Small Business Investment Act of 1958; and $242,000,000 shall be available for salaries and expenses of the Administration of which amount—

15 USC 694c, *post*, p. 837

15 USC 694

"(1) $13,200,000 shall be available for procurement and technical assistance; of which amount not less than $2,000,000 shall be available for technical assistance, and of this amount not less than $629,000 shall be used to pay for the continued development of a procurement automated source system, and not less than $825,000 shall be used to develop and maintain technology assistance centers which shall have direct or indirect access to a minimum of thirty technology data banks to define the technology problems or needs of small businesses by searching technology data banks or other sources to locate, obtain, and interpret the appropriate technology for such small businesses and not more than $200,000 shall be available for a study the purpose of which shall be to define and describe the forest products industry and, in particular, to define and describe that portion of the forest products industry which consists of small businesses, to identify the trends and conditions affecting the survival of small businesses as a viable portion of the forest products industry, and to propose actions and programs to assist and promote a broadly based, nonconcentrated, healthy forest products industry.

"(2) $23,100,000 shall be available for management assistance, of which amount not less than $880,000 shall be used to sustain the small business export development program and to employ not less than seventeen staff people for the Office of International Trade, ten of whom shall serve as export development specialists, with each of the Administration's regional offices being assigned one such specialist.

"(3) $8,800,000 shall be available for economic research and analysis and advocacy, of which amount not less than $2,200,000 shall be used to employ at least sixty-nine staff people for the Office of the Chief Counsel for Advocacy to carry out research and those functions prescribed by Public Law 94-305; not less than $1,650,000 shall be used to develop an external small

90 Stat. 663

business data bank and small business index; and not less than $1,650,000 shall be used for research.

"(4) $27,500,000 shall be available for the Office of Minority Small Business and Capital Ownership Development, $12,414,000 of which shall be used to carry out those functions, including administrative expenses, prescribed by section 7(j) of this Act. 15 USC 636.

"(5) $9,900,000 shall be available for program evaluation and data management with priority given to the development of an automated internal Administration management data base, to the enhancement of the Administration's document tracking system, to the installation of terminals in Administration field offices, and to the development of an indicative small business data base comprised of names and addresses and related information, of which amount not less than $1,100,000 shall be used to pay for development of such indicative small business data base.

"(6) $20,000,000 shall be available for matching grants to small business development centers, and an additional $550,000 shall be available for the administration of the small business development center program.

"(j) The Administrator may transfer no more than 10 percent of each of the total levels for salaries and expenses authorized in paragraphs (1) through (6) of section 20(i) of this Act: *Provided, however,* That no level authorized in such paragraphs may be increased more than 20 percent by any such transfers. Funding transfers

"(k) The following program levels are authorized for each of fiscal years 1982, 1983, and 1984:

"(1) For the programs authorized by section 7(a) of this Act, the Administration is authorized to make $330,000,000 in direct and immediate participation loans, and $4,400,000,000 in deferred participation loans. 15 USC 636; *post*, p. 852.

"(2) For the programs authorized by section 7(h) of this Act, the Administration is authorized to make $28,000,000 in direct and immediate participation loans, and $14,000,000 in guaranteed loans.

"(3) For the programs authorized by section 7(i) of this Act, the Administration is authorized to make $83,000,000 in direct and immediate participation loans, and $99,000,000 in guaranteed loans.

"(4) For the programs authorized by section 7(l) of this Act, the Administration is authorized to make $45,000,000 in direct and immediate participation loans, and $37,000,000 in guaranteed loans.

"(5) For the programs authorized by sections 501, 502, and 503 of the Small Business Investment Act of 1958, the Administration is authorized to make $61,000,000 in direct and immediate participation loans, and $125,000,000 in guaranteed loans and guarantees of debentures. 15 USC 695, 696; *post*, p. 837.

"(6) For the programs authorized by title III of the Small Business Investment Act of 1958, the Administration is authorized to make $47,000,000 in direct purchases of debentures and preferred securities and to make $251,000,000 in guarantees of debentures. 15 USC 681.

"(7) For the programs authorized by part B of title IV of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed $2,780,000,000. 15 USC 694a.

"(8) For the programs authorized by sections 7(b)(3) through 7(b)(9) and 7(g) of this Act, the Administration is authorized to enter into $121,000,000 in loans, guarantees, and other obligations or commitments.

15 USC 636, *post*, p. 843.

"(9) For the programs authorized in sections 404 and 405 of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed $125,000,000.

15 USC 694-1, 694-2.

"(10) There are hereby authorized to be appropriated such sums as may be necessary and appropriate for the carrying out of the provisions and purposes, including administrative expenses of sections 7(b) and 7(g), of this Act; and there are authorized to be transferred from the disaster loan revolving funds such sums as may be necessary and appropriate for such administrative expenses.

93 Stat. 118.
15 USC 636, *post*, p. 843.

"(l) There are authorized to be appropriated to the Administration for fiscal year 1982, $1,375,000,000, and an identical amount for each of fiscal years 1983 and 1984. Of such sum, $1,022,000,000 shall be available for the purpose of carrying out the programs referred to in subsection (k), paragraph (1) through (6); $83,000,000 shall be available for the purpose of carrying out the provisions of section 412 of the Small Business Investment Act of 1958; $4,000,000 shall be available for the purpose of carrying out the provisions of section 403 of the Small Business Investment Act of 1958; and $266,000,000 shall be available for salaries and expenses of the Administration of which amount—

15 USC 694c, *post*, p. 837.

15 USC 694.

"(1) $14,520,000 shall be available for procurement and technical assistance; of which amount not less than $2,100,000 shall be available for technical assistance, and of this amount not less than $692,000 shall be used to pay for the continued development of a procurement automated source system, and not less than $907,500 shall be used to develop and maintain technology assistance centers which shall have direct or indirect access to a minimum of thirty technology data banks to define the technology problems or needs of small businesses by searching technology data banks or other sources to locate, obtain and interpret the appropriate technology for such small businesses.

"(2) $25,400,000 shall be available for management assistance of which amount not less than $968,000 shall be used to sustain the small business export development program and to employ not less than seventeen staff people for the Office of International Trade, ten of whom shall serve as export development specialists with each of the Administration's regional offices being assigned one such specialist.

"(3) $9,680,000 shall be available for economic research and analysis and advocacy, of which amount not less than $2,420,000 shall be used to employ at least sixty-nine staff people for the Office of the Chief Counsel for Advocacy to carry out research and those functions prescribed by Public Law 94-305; not less than $1,815,000 shall be used to develop an external small business data bank and small business index; and not less than $1,815,000 shall be used for research.

90 Stat. 663.

"(4) $30,250,000 shall be available for the Office of Minority Small Business and Capital Ownership Development, $13,655,000 of which shall be used to carry out those functions, including administrative expenses, prescribed by section 7(j) of this Act.

15 USC 636.

"(5) $10,900,000 shall be available for program evaluation and data management with priority given to the development of an automated internal Administration management data base, to the enhancement of the Administration's document tracking system, to the installation of terminals in Administration field offices, and to the development of an indicative small business data base comprised of names and addresses and related information, of which amount not less than $1,210,000 shall be used to pay for development of such indicative small business data base.

"(m) The Administrator may transfer no more than 10 percent of each of the total levels for salaries and expenses authorized in paragraphs (1) through (5) of section 20(l) of this Act: *Provided, however,* That no level authorized in such paragraphs may be increased more than 20 percent by any such transfers.".

PART B—MISCELLANEOUS AND TECHNICAL AMENDMENTS

SEC. 110. Section 20(a) of the Small Business Act is amended to read as follows: "For fiscal years 1981, 1982, 1983 and 1984 there are hereby authorized to be appropriated such sums as may be necessary and appropriate to carry out the provisions and purposes of this Act other than those for which appropriations are specifically authorized. For fiscal year 1985 and every year thereafter, there are hereby authorized to be appropriated such sums as may be necessary and appropriate to carry out the provisions and purposes of this Act other than those for which appropriations are specifically authorized. All appropriations whether specifically or generally authorized shall remain available until expended.". 15 USC 631 note.

INVESTMENT OF IDLE FUNDS

SEC. 111. The last sentence of section 412 of the Small Business Investment Act of 1958 is repealed. 15 USC 694c.

SEC. 112. Section 405 of the Small Business Investment Act of 1958 is amended by adding at the end thereof the following: "Moneys in the fund not needed for the payment of current operating expenses or for the payment of claims arising under this part may be invested in bonds or other obligations of, or bonds or other obligations guaranteed as to principal and interest by, the United States; except that moneys provided as capital for the fund shall not be so invested.". 15 USC 694-2.

DEVELOPMENT COMPANY DEBENTURES

SEC. 113. (a) Title V of the Small Business Investment Act of 1958 is amended by adding at the end thereof the following new section:

"DEVELOPMENT COMPANY DEBENTURES

"SEC. 503. (a)(1) Except as provided in subsection (b), the Administration may guarantee the timely payment of all principal and interest as scheduled on any debenture issued by any qualified State or local development company. Guarantees. 15 USC 697.

"(2) Such guarantees may be made on such terms and conditions as the Administration may by regulation determine to be appropriate.

"(3) The full faith and credit of the United States is pledged to the payment of all amounts guaranteed under this subsection.

"(4) Any debenture issued by any State or local development company with respect to which a guarantee is made under this

subsection, may be subordinated by the Administration to any other debenture, promissory note, or other debt or obligation of such company.

"(b) No guarantee may be made with respect to any debenture under subsection (a) unless—

"(1) such debenture is issued for the purpose of making one or more loans to small business concerns, the proceeds of which shall be used by such concern for the purposes set forth in section 502;

15 USC 696.

"(2) necessary funds for making such loans are not available to such company from private sources on reasonable terms;

"(3) the interest rate on such debenture is not less than the rate of interest determined by the Secretary of the Treasury for purposes of section 303(b);

15 USC 683.

"(4) the aggregate amount of such debenture does not exceed the amount of loans to be made from the proceeds of such debenture (other than any excess attributable to the administrative costs of such loans);

"(5) the amount of any loan to be made from such proceeds does not exceed an amount equal to 50 percent of the cost of the project with respect to which such loan is made; and

"(6) the Administration approves each loan to be made from such proceeds.

Administrative expenses, additional charge.

"(c) The Administration may impose an additional charge for administrative expenses with respect to each debenture for which payment of principal and interest is guaranteed under subsection (a).

"Qualified State or local development company."

"(d) For purposes of this section, the term 'qualified State or local development company' means any State or local development company which, as determined by the Administration, has—

"(1) a full-time professional staff;

"(2) professional management ability (including adequate accounting, legal, and business-servicing abilities); and

"(3) a board of directors, or membership, which meets on a regular basis to make management decisions for such company, including decisions relating to the making and servicing of loans by such company.".

(b) The table of contents of the Small Business Investment Act of 1958 is amended by inserting after the item relating to section 502 the following new item:

"Sec. 503. Development company debentures.".

REGULAR BUSINESS LOAN REFORM

15 USC 634.

SEC. 114. Section 5(b)(7) of the Small Business Act is amended to read as follows:

"(7) in addition to any powers, functions, privileges and immunities otherwise vested in him, take any and all actions (including the procurement of the services of attorneys by contract in any office where an attorney or attorneys are not or cannot be economically employed full time to render such services) when he determines such actions are necessary or desirable in making, servicing, compromising, modifying, liquidating, or otherwise dealing with or realizing on loans made under the provisions of this Act: *Provided*, That nothing herein shall be construed as authorizing the Administrator to contract or otherwise delegate his responsibility for loan servicing to other than Administration personnel, but with respect to deferred participation loans he

may authorize participating lending institutions, in his discretion pursuant to regulations promulgated by him, to take such actions on his behalf, including, but not limited to the determination of eligibility and creditworthiness, and loan monitoring, collection and liquidation;".

SURETY BOND GUARANTEE

SEC. 115. Section 411(c) of the Small Business Investment Act of 1958 is amended to read as follows: 15 USC 694b.

"(c) Any guarantee or agreement to indemnify under this section shall obligate the Administration to pay to the surety a sum not to exceed (1) in the case of a breach of contract, 90 percent of the loss incurred and paid by the surety as the result of the breach; or (2) in a case in which (b) applies, the amount determined under (b).".

PROCUREMENT SYSTEMS

SEC. 116. Section 15(c) of the Small Business Act is amended to read as follows: 15 USC 644.

"(c)(1) During fiscal years 1981, 1982, and 1983, public and private not-for-profit organizations eligible for assistance under section 7(h) of this Act shall be eligible to participate in programs authorized under this section in an aggregate amount not to exceed $100,000,000 for each such year: *Provided*, That the Administrator shall monitor and evaluate such participation and in any case where the Administrator and the Executive Director of the Committee for the Purchase from the Blind and Severely Handicapped find that the participation of such organizations has or may cause severe economic injury to for-profit small businesses, the Administrator shall and is hereby authorized to direct and require every agency and department having procurement powers to take such actions as the Administrator and the Executive Director of the Committee for the Purchase from the Blind and Severely Handicapped may deem appropriate to alleviate the economic injury sustained or likely to be sustained by such for-profit small businesses. 15 USC 636. Participating organizations, monitoring and evaluation.

"(2) The Administration shall, not later than January 1, 1982, prepare and transmit to the Senate Select Committee on Small Business and the Committee on Small Business of the House of Representatives, a report on the impact of contracts awarded to such organizations on for-profit small businesses.". Contract impact, report to congressional committees.

SEC. 117. (a) The first sentence of section 15(d) of the Small Business Act is amended by inserting "small business" before "concerns". 15 USC 644.

(b) Subsections (e) and (f) of section 15 of such Act are amended to read as follows:

"(e) In carrying out small business set-aside programs, departments, agencies, and instrumentalities of the executive branch shall award contracts, and encourage the placement of subcontracts for procurement to the following in the manner and in the order stated: Contract award, priorities.

"(1) concerns which are small business concerns and which are located in labor surplus areas, on the basis of a total set-aside;

"(2) concerns which are small business concerns, on the basis of a total set-aside;

"(3) concerns which are small business concerns and which are located in a labor surplus area, on the basis of a partial set-aside;

"(4) concerns which are small business concerns, on the basis of a partial set-aside.

"(f) After priority is given to the small business concerns specified in subsection (e), priority shall also be given to the awarding of contracts and the placement of subcontracts, on the basis of a total set-aside, to concerns which—

"(1) are not eligible under subsection (e);

"(2) are not small business concerns; and

"(3) will perform a substantial proportion of the production on those contracts and subcontracts within areas of concentrated unemployment or underemployment or within labor surplus areas.".

ASIAN PACIFIC AMERICANS

15 USC 631.

SEC. 118. (a) Section 2(e)(1)(C) of the Small Business Act is amended by inserting "Asian Pacific Americans," after "Native Americans,".

15 USC 637.

(b) The last sentence of subparagraph (C) of the clause contained in section 8(d)(3) of the Small Business Act is amended by inserting "Asian Pacific Americans," after "Native Americans,".

Applicability.
15 USC 631 note.

(c)(1) The amendment made by subsection (a) shall apply as if included in the amendment made by section 201 of the Act entitled "An Act to amend the Small Business Act and the Small Business Investment Act of 1958", approved October 24, 1978 (Public Law 95-507).

15 USC 631.

Applicability.
15 USC 637 note.
15 USC 637.

(2) The amendment made by subsection (b) shall apply as if included in the amendment made by section 211 of the Act so entitled.

DISASTER LOAN INTEREST RATES

93 Stat. 118
15 USC 636.

SEC. 119. (a) Section 7(c) of the Small Business Act is amended by striking the period at the end and inserting in lieu thereof "; and" and by adding the following new paragraph:

"(C) if the loan proceeds are to repair or replace property damaged or destroyed and if the applicant is a business concern which is able to obtain sufficient credit elsewhere, the interest rate shall not exceed the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans and adjusted to the nearest one-eighth of 1 percent, and an additional amount as determined by the Administration, but not to exceed 1 percent: *Provided,* That three years after such loan is fully disbursed and every two years thereafter for the term of the loan, if the Administration determines that the borrower is able to obtain a loan from non-Federal sources at reasonable rates and terms for loans of similar purposes and periods of time, the borrower shall, upon request by the Administration, apply for and accept such a loan in sufficient amount to repay the Administration: *Provided further,* That no loan under subsection (b)(1) shall be made, either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis, if the total amount outstanding and committed to the borrower under such subsection would exceed $500,000 for each disaster, unless an applicant constitutes a major source of employment in an area suffering a disaster, in which case the Administration, in its discretion, may waive the $500,000 limitation.".

(b) Section 7(c) of the Small Business Act is further amended by striking "October 1, 1982" and inserting in lieu thereof "October 1, 1983". 93 Stat. 118. 15 USC 636.

(c) Section 18 of the Small Business Act is amended by— 93 Stat. 119. 15 USC 647.

(1) striking the comma after the phrase "agricultural related industries" and inserting the following: ": *Provided*, That prior to October 1, 1983, an agricultural enterprise shall not be eligible for loan assistance under paragraph (1) of section 7(b) to repair or replace property other than residences and/or personal property unless it is declined for, or would be declined for, emergency loan assistance at substantially similar interest rates from the Farmers Home Administration under subchapter III of the Consolidated Farm and Rural Development Act," and 7 USC 1961.

(2) striking subsection (b) and inserting in lieu thereof the following:

"(b) As used in this Act—

"(1) 'agricultural enterprises' means those businesses engaged in the production of food and fiber, ranching, and raising of livestock, aquaculture, and all other farming and agricultural related industries; and "Agricultural enterprises."

"(2) 'credit elsewhere' means the availability of sufficient credit from non-Federal sources at reasonable rates and terms, taking into consideration prevailing private rates and terms in the community in or near where the concern transacts business for similar purposes and periods of time.". "Credit elsewhere."

(d) The amendments made by this section to sections 7(c)(3)(C) and 18 of the Small Business Act shall not apply to any disaster which commenced on or before the effective date of this Act. Applicability. 15 USC 636 note. *Ante*, p. 840.

AMENDMENTS TO CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT

SEC. 120. (a) Section 321 of the Consolidated Farm and Rural Development Act is amended by striking out in the first sentence all that follows after "with the assistance of such loan" through the end of the sentence and inserting in lieu thereof a period. 7 USC 1961.

(b) Section 324(a) of the Consolidated Farm and Rural Development Act is amended by— Loan interest rates. 7 USC 1964.

(1) striking out the first sentence and inserting in lieu thereof the following: "Loans made or insured under this subtitle shall be at rates of interest as follows:

"(1) with respect to loans or portions of loans up to the amount of the applicant's actual loss caused by the disaster, (A) if the applicant is unable to obtain sufficient credit elsewhere to finance the applicant's actual needs at reasonable rates and terms, taking into consideration prevailing private and cooperative rates and terms in the community in or near which the applicant resides for loans for similar purposes and periods of time, the interest rate shall be a rate prescribed by the Secretary not in excess of 5 percent per annum, and (B) if the applicant is able to obtain sufficient credit elsewhere, the interest rate shall be the rate prescribed by the Secretary, but not in excess of the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans, plus not to exceed 1 percent, as determined by the Secretary, and adjusted to the nearest one-eighth of 1 percent: *Provided*, That the total

amount outstanding and committed to the borrower under this paragraph (1) shall not exceed $500,000 for each disaster; and

"(2) with respect to loans or portions of loans exceeding the amount of actual loss caused by the disaster, the interest rate shall be that prevailing in the private market for similar loans, as determined by the Secretary."; and

(2) inserting in the second sentence after "*Provided*, That" the following: "for loans approved under subsection (a)(1)(B), three years after such loan is made or insured and every two years thereafter for the term of the loan, if the Secretary determines that the borrower is able to obtain a loan from non-Federal sources at reasonable rates and terms for loans of similar purposes and periods of time, the borrower shall, upon request by the Secretary, apply for and accept such loan in sufficient amount to repay the Secretary: *Provided further*, That".

BORROWING AUTHORITY FOR SMALL BUSINESS ADMINISTRATION REVOLVING FUNDS

15 USC 633.

SEC. 121. Section 4(c)(5) of the Small Business Act is amended to read as follows:

"(5)(A) The Administration is authorized to make and issue notes to the Secretary of the Treasury for the purpose of obtaining funds necessary for discharging obligations under the revolving funds created by section 4(c)(1) of this Act and for authorized expenditures out of the funds. Such notes shall be in such form and denominations and have such maturities and be subject to such terms and conditions as may be prescribed by the Administration with the approval of the Secretary of the Treasury. Such notes shall bear interest at a rate fixed by the Secretary of the Treasury, taking into consideration the current average market yield of outstanding marketable obligations of the United States having maturities comparable to the notes issued by the Administration under this paragraph. The Secretary of the Treasury is authorized and directed to purchase any notes of the Administration issued hereunder, and, for that purpose, the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which such securities may be issued under such Act, as amended, are extended to include the purchase of notes issued by the Administration. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes shall be treated as public debt transactions of the United States. All borrowing authority contained herein shall be effective only to such extent or in such amounts as are provided in advance in appropriation Acts.

31 USC 774.

"(B)(i) Moneys in the funds established in subsection (c)(1) not needed for current operations may be paid into miscellaneous receipts of the Treasury.

"(ii) The Administration shall pay into miscellaneous receipts of the Treasury, following the close of each fiscal year, interest on the average of loan disbursements outstanding throughout the year providing such disbursements are made from amounts appropriated after October 1, 1980 or are made from repayments of principal of loans made from appropriated funds. This interest shall be calculated solely on the amount of loan disbursements net of losses at the rate provided under subsection (c)(5)(A).

"(C) Except on those loan disbursements on which interest is paid under subsection (B)(ii), the Administration shall pay into miscellaneous receipts of the Treasury, following the close of each fiscal year, interest received by the Administration on financing functions performed under this Act and titles III and V of the Small Business Investment Act of 1958 providing the capital used to perform such functions originated from appropriated funds. Such payments shall be treated by the Department of the Treasury as interest income, not as retirement of indebtedness. 15 USC 681, 695.

"(D) There are authorized to be appropriated, in any fiscal year, such sums as may be necessary for losses and interest subsidies incurred by the funds established by subsection (c)(1), but not previously reimbursed.". Appropriation authorization.

ENERGY SHORTAGE LOANS

SEC. 122. Section 7(b)(8) of the Small Business Act is amended by inserting after "energy-producing resources," the following: "including, but not limited to, a shortage of coal or other energy-producing resource caused by a strike, boycott, or embargo, unless such strike, boycott, or embargo is directly against such small business concern,". 93 Stat. 118. 15 USC 636.

PRODUCT DISASTER LOANS

SEC. 123. Section 7(b)(4) of the Small Business Act is amended by striking "undetermined causes" and inserting in lieu thereof "other causes: *Provided,* That any small business which intentionally adulterates its product in order to attempt to establish eligibility under this program shall not be eligible for loan assistance hereunder".

DUPLICATION OF DISASTER BENEFITS

SEC. 124. Section 7(b) of the Small Business Act is amended by adding at the end thereof the following: "(E) A State grant made on or prior to July 1, 1979, shall not be considered compensation for the purpose of applying the provisions of subsection (b) of section 315 of Public Law 93-288 (42 U.S.C. 5155) to a disaster loan under paragraph (1), (2), or (4) of this subsection.".

TITLE II—SMALL BUSINESS DEVELOPMENT CENTERS

Small Business Development Center Act of 1980.

SHORT TITLE

SEC. 201. This title may be cited as the "Small Business Development Center Act of 1980". 15 USC 631 note.

PROGRAM AUTHORIZATION

SEC. 202. The Small Business Act is amended by redesignating section 21 as section 30 and by inserting the following new section: 15 USC 631 note.

"SEC. 21. (a)(1) The Administration is authorized to make grants (including contracts and cooperative agreements) to any State government or any agency thereof, any regional entity, any State-chartered development, credit or finance corporation, any public or private institution of higher education, including but not limited to any land-grant college or university, any college or school of business, engineering, commerce, or agriculture, community college or junior college, or to any entity formed by two or more of the above entities (herein referred to as 'applicants') to assist in establishing small Grants, recipients and purposes. 15 USC 648.

business development centers and to any such body for: small business oriented employment or natural resources development programs; studies, research, and counseling concerning the managing, financing, and operation of small business enterprises; delivery or distribution of such services and information; and providing access to business analysts who can refer small business concerns to available experts.

Non-Federal additional amount.

"(2) The Administration shall require, as a condition to any grant (or amendment or modification thereof) made to an applicant under this section, that an additional amount (excluding any fees collected from recipients of such assistance) equal to the amount of such grant be provided from sources other than the Federal Government: *Provided,* That the additional amount shall not include any amount of indirect costs or in-kind contributions paid for under any Federal program, nor shall such indirect costs or in-kind contributions exceed 50 percent of the non-Federal additional amount: *Provided further,* That no recipient of funds under this section shall receive a grant which would exceed its pro-rata share of a $65,000,000 program based upon the population to be served by the small business development center as compared to the total population in the United States, or $200,000, whichever is greater.

"(b)(1) During fiscal years 1981, 1982, and 1983, financial assistance shall not be made available to any applicant if approving such assistance would be inconsistent with a plan for the area involved which has been adopted by an agency recognized by the State government as authorized to do so and approved by the Administration in accordance with the standards and requirements established pursuant to this section.

Plan, submittal to SBA.

"(2) An applicant may apply to participate in the program by submitting to the Administration for approval a plan naming those authorized in subsection (a) to participate in the program, the geographic area to be served, the services that it would provide, the method for delivering services, a budget, and any other information and assurances the Administration may require to insure that the applicant will carry out the activities eligible for assistance. The Administration is authorized to approve, conditionally approve or reject a plan or combination of plans submitted. In all cases, the Administration shall review plans for conformity with the plan submitted pursuant to paragraph (1) of this subsection, and with a view toward providing small business with the most comprehensive and coordinated assistance in the State or part thereof to be served.

Review.

Assistance to out-of-State businesses.

"(3) At the discretion of the Administration, the Administration is authorized to permit a small business development center to provide advice, information and assistance, as described in subsection (c), to small businesses located outside the State, but only to the extent such businesses are located within close geographical proximity to the small business development center, as determined by the Administration.

Problem-solving assistance.

"(c)(1) Applicants receiving grants under this section shall assist small businesses in solving problems concerning operations, manufacturing, engineering, technology exchange and development, personnel administration, marketing, sales, merchandising, finance, accounting, business strategy development, and other disciplines required for small business growth and expansion, innovation, increased productivity, and management improvement, and for decreasing industry economic concentrations.

"(2) A small business development center shall provide services as close as possible to small businesses by providing extension services and utilizing satellite locations when necessary. To the extent possible, it also shall make full use of other Federal and State government programs that are concerned with aiding small business. A small business development center shall have— Development center extension services. Staff and access requirements.

"(A) a full-time staff, including a staff director to manage the program activities;

"(B) access to business analysts to counsel, assist, and inform small business clients;

"(C) access to technology transfer agents to provide state of art technology to small businesses through coupling with national and regional technology data sources;

"(D) access to information specialists to assist in providing information searches and referrals to small business;

"(E) access to part-time professional specialists to conduct research or to provide counseling assistance whenever the need arises; and

"(F) access to laboratory and adaptive engineering facilities.

"(3) Services provided by a small business development center shall include, but shall not be limited to— Assistance services.

"(A) furnishing one-to-one individual counseling to small businesses;

"(B) assisting in technology transfer, research, and coupling from existing sources to small businesses;

"(C) maintaining current information concerning Federal, State, and local regulations that affect small businesses and counsel small businesses on methods of compliance. Counseling and technology development shall be provided when necessary to help small businesses find solutions for complying with environmental, energy, health, safety, and other Federal, State, and local regulations;

"(D) coordinating and conducting research into technical and general small business problems for which there are no ready solutions;

"(E) providing and maintaining a comprehensive library that contains current information and statistical data needed by small businesses;

"(F) maintaining a working relationship and open communications with the financial and investment communities, legal associations, local and regional private consultants, and local and regional small business groups and associations in order to help address the various needs of the small business community;

"(G) conducting in-depth surveys for local small business groups in order to develop general information regarding the local economy and general small business strengths and weaknesses in the locality; and

"(H) maintaining lists of local and regional private consultants to whom small businesses can be referred.

A small business development center shall continue to upgrade and modify its services, as needed, in order to meet the changing and evolving needs of the small business community.

"(4) In addition to the methods prescribed in section 21(c)(2), a small business development center shall utilize and compensate as one of its resources qualified small business vendors, including but not limited to, private management consultants, private consulting engineers and private testing laboratories, to provide services as Qualified small business vendors.

described in this subsection to small businesses on behalf of such small business development center.

Laboratory assistance.

"(d) Laboratories operated and funded by the Federal Government are authorized and directed to cooperate with the Administration in developing and establishing programs to support small business development centers by making facilities and equipment available; providing experiment station capabilities in adaptive engineering; providing library and technical information processing capabilities; and providing professional staff for consulting. The Administration is authorized to reimburse the laboratories for such services.

National Science Foundation and innovation centers.
Report to SBA and Congress.

"(e) The National Science Foundation and innovation centers supported by the National Science Foundation are authorized and directed to cooperate with small business development centers participating in this program. The National Science Foundation shall report annually on the performance of such innovation centers with recommendations to the Administration and the Congress on how such innovation centers can be strengthened and expanded. The National Science Foundation shall include in its report to Congress information on the ability of innovation centers to interact with the Nation's small business community and recommendations to the Administration on continued funding.

NASA and industrial application centers.

Report to SBA and Congress.

"(f) The National Aeronautics and Space Administration and industrial application centers supported by the National Aeronautics and Space Administration are authorized and directed to cooperate with small business development centers participating in this program. The National Aeronautics and Space Administration shall report annually on the performance of such industrial application centers with recommendations to the Administration and the Congress on how such industrial application centers can be strengthened and expanded. The National Aeronautics and Space Administration shall include in its report to Congress information on the ability of industrial application centers to interact with the Nation's small business community and recommendations to the Administration on continued funding.

Deputy Associate Administrator for Management Assistance.
5 USC 5101 *et seq.*, 5331.
44 FR 58671.

"(g)(1) The Administrator shall appoint a Deputy Associate Administrator for Management Assistance who shall report to the Associate Administrator for Management Assistance and who shall serve without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to chapter 51, and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but at a rate not less than the rate of GS-17 of the General Schedule.

Duties.

"(2) The sole responsibility of the Deputy Associate Administrator for Management Assistance shall be to administer the small business development center program. Duties of the position shall include, but are not limited to, recommending the annual program budget, reviewing the annual budgets submitted by each applicant, establishing appropriate funding levels therefore, selecting applicants to participate in this program, implementing the provisions of this section, maintaining a clearinghouse to provide for the dissemination and exchange of information between small business development centers and conducting audits of recipients of grants under this section. The Deputy Associate Administrator for Management Assistance shall confer with and seek the advice and counsel of the Board in carrying out the responsibilities described in this subsection.

National Small Business Development Center Advisory Board, establishment.

"(h)(1) There is established a National Small Business Development Center Advisory Board (herein referred to as 'Board') which

shall consist of nine members appointed from civilian life by the Administrator and who shall be persons of outstanding qualifications known to be familiar and sympathetic with small business needs and problems. No more than three members shall be from universities or their affiliates and six shall be from small businesses or associations representing small businesses. At the time of the appointment of the Board, the Administrator shall designate one-third of the members and at least one from each category whose term shall end in two years from the date of appointment, a second third whose term shall end in three years from the date of appointment, and the final third whose term shall end in four years from the date of appointment. Succeeding Boards shall have three-year terms, with one-third of the Board changing each year.

"(2) The Board shall elect a Chairman and advise, counsel, and confer with the Deputy Associate Administrator for Management Assistance in carrying out the duties described in this section. The Board shall meet at least quarterly and at the call of the Chairman of the Board. Each member of the Board shall be entitled to be compensated at the rate not in excess of the per diem equivalent of the highest rate of pay for individuals occupying the position under GS-18 of the General Schedule for each day engaged in activities of the Board and shall be entitled to be reimbursed for expenses as a member of the Board.

Chairman.

Meetings.

Compensation.

44 FR 58671.

"(i)(1) Each small business development center may establish an advisory board.

Advisory board.

"(2) Each small business development center advisory board shall elect a chairman and advise, counsel, and confer with the director of the small business development center on all policy matters pertaining to the operation of the small business development center, including who may be eligible to receive assistance from, and how local and regional private consultants may participate with the small business development center.

"(j) The Administration, with the advice of the Board, shall establish a plan for evaluation of the small business development center program which may include the retaining of an independent concern to conduct such an evaluation. The evaluation shall be both quantitative and qualitative and shall determine—

Program evaluation plan.

"(1) the impact of the small business development center program on small businesses, including private consultants, and the socio-economic base of the area served;

"(2) the multidisciplinary resources the small business development center program was able to coordinate to assist small businesses; and

"(3) the extent to which various types of small businesses engaged in areas such as manufacturing, retailing, wholesaling and services have been assisted by the small business development center program.

For the purpose of this evaluation, the Administration is authorized to require any small business development center or party receiving assistance under this section to furnish it with such information annually or otherwise as it deems appropriate. Such evaluation shall be completed and submitted to the Senate Select Committee on Small Business and the Committee on Small Business of the House of Representatives by January 31, 1983.

Submittal to congressional committees.

"(k) The authority to enter into contracts shall be in effect for each fiscal year only to the extent or in the amounts as are provided in advance in appropriations Acts.".

Contract authority.

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15 USC 636.

SEC. 203. Section 7(d)(1) of the Small Business Act is amended to read as follows:

"(d)(1) On or after October 1, 1980, the Administration shall not fund any small business development center or any variation thereof, except as authorized in section 21 of this Act: *Provided,* That in fiscal year 1980 nothing in this section or in section 21 shall be deemed to affect the operation of any small business development center which was funded by the Administration prior to October 1, 1979: *Provided further,* That no small business development center which was funded in fiscal year 1979 may be funded in excess of $300,000 in fiscal year 1980.".

Ante, p. 843.

Repeal.
Ante, p. 843.
15 USC 648 note.

SEC. 204. Sections 201 and 202 of this title are repealed effective October 1, 1984.

TITLE III—SMALL BUSINESS ECONOMIC POLICY

Small Business Economic Policy Act of 1980.

SHORT TITLE

15 USC 631 note.

SEC. 301. This title may be cited as the "Small Business Economic Policy Act of 1980".

DECLARATION OF SMALL BUSINESS ECONOMIC POLICY

15 USC 631a.

SEC. 302. (a) For the purpose of preserving and promoting a competitive free enterprise economic system, Congress hereby declares that it is the continuing policy and responsibility of the Federal Government to use all practical means and to take such actions as are necessary, consistent with its needs and obligations and other essential considerations of national policy, to implement and coordinate all Federal department, agency, and instrumentality policies, programs, and activities in order to: foster the economic interests of small businesses; insure a competitive economic climate conducive to the development, growth and expansion of small businesses; establish incentives to assure that adequate capital and other resources at competitive prices are available to small businesses; reduce the concentration of economic resources and expand competition; and provide an opportunity for entrepreneurship, inventiveness, and the creation and growth of small businesses.

(b) Congress further declares that the Federal Government is committed to a policy of utilizing all reasonable means, consistent with the overall economic policy goals of the Nation and the preservation of the competitive free enterprise system of the Nation, to establish private sector incentives that will help assure that adequate capital at competitive prices is available to small businesses. To fulfill this policy, departments, agencies, and instrumentalities of the Federal Government shall use all reasonable means to coordinate, create, and sustain policies and programs which promote investment in small businesses, including those investments which expand employment opportunities and which foster the effective and efficient use of human and natural resources in the economy of the Nation.

STATE OF SMALL BUSINESS

Report to Congress.
15 USC 631b.

SEC. 303. (a) The President shall transmit to the Congress not later than January 20 of each year a Report on Small Business and Competition which shall—

(1) examine the current role of small business in the economy on an industry-by-industry basis;

(2) present current and historical data on production, employment, investment, and other economic variables for small business in the economy as a whole and for small business in each sector of the economy;

(3) identify economic trends which will or may affect the small business sector and the state of competition;

(4) examine the effects on small business and competition of policies, programs, and activities, including, but not limited to the Internal Revenue Code, the Employee Retirement Income Security Act, the Securities Act of 1933, and the Securities Exchange Act of 1934, and regulations promulgated thereunder; identify problems generated by such policies, programs, and activities; and recommend legislative and administrative solutions to such problems; and

26 USC 1 *et seq.*
29 USC 1001 note,
15 USC 77a.
15 USC 78a.

(5) recommend a program for carrying out the policy declared in section 302 of this Act, together with such recommendations for legislation as he may deem necessary or desirable.

(b) The President also shall transmit simultaneously as an appendix to such annual report, a report, by agency and department, on the total dollar value of all Federal contracts exceeding $10,000 in amount and the dollar amount (including the subcontracts thereunder in excess of $10,000) awarded to small, minority-owned and female-owned businesses.

Appendix to report, transmittal to Congress.

(c) The President may transmit from time to time to the Congress reports supplementary to the Report on Small Business and Competition, each of which shall include such supplementary or revised recommendations as he may deem necessary or desirable to achieve the policy declared in section 302 of this Act.

Supplementary reports, transmittal to Congress.

(d) The Report on Small Business and Competition and all supplementary reports transmitted under subsections (b) and (c) of this section shall, when transmitted to Congress, be referred to the Senate Select Committee on Small Business and the Committee on Small Business of the House of Representatives.

Referral to congressional committees.

TITLE IV—SMALL BUSINESS ECONOMIC RESEARCH AND ANALYSIS

SEC. 401. The Small Business Act is amended by redesignating subsection 4(b) as subsection 4(b)(1) and inserting thereafter the following:

15 USC 633.

"(2) The Administrator also shall be responsible for—

"(A) establishing and maintaining an external small business economic data base for the purpose of providing the Congress and the Administration information on the economic condition and the expansion or contraction of the small business sector. To that end, the Administrator shall publish on a regular basis national small business economic indices and, to the extent feasible, regional small business economic indices, which shall include, but need not be limited to, data on—

Data base.

Economic indices, publication.

"(i) employment, layoffs, and new hires;

"(ii) number of business establishments and the types of such establishments such as sole proprietorships, corporations, and partnerships;

"(iii) number of business formations and failures;

"(iv) sales and new orders;

"(v) back orders;
"(vi) investment in plant and equipment;
"(vii) changes in inventory and rate of inventory turnover;
"(viii) sources and amounts of capital investment, including debt, equity, and internally generated funds;
"(ix) debt to equity ratios;
"(x) exports;
"(xi) number and dollar amount of mergers and acquisitions by size of acquiring and acquired firm; and
"(xii) concentration ratios; and

Annual report, publication.

"(B) publishing annually a report giving a comparative analysis and interpretation of the historical trends of the small business sector as reflected by the data acquired pursuant to subparagraph (A) of this subsection.".

SEC. 402. Section 654d(1) of title 15, United States Code, is amended by striking the word "Schedule;" and inserting in lieu thereof "Schedule: *Provided, however,* That not more than ten staff personnel at any one time may be employed and compensated at a rate not in excess of GS-15, step 10, of the General Schedule;".

44 FR 58671.

SEC. 403. Section 5315 of title 5 of the United States Code is amended by adding the following new paragraph:

5 USC 5315.

"(128) Chief Counsel for Advocacy, Small Business Administration.".

Credit-need studies, report to Congress.

SEC. 404. In consultation with the Administrator of the Small Business Administration and the Bureau of the Census, the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, and the Federal Deposit Insurance Corporation shall conduct such studies of the credit needs of small business as may be appropriate to determine the extent to which such needs are being met by commercial banks and shall report the results of such studies to the Congress by January 1, 1982, together with their views and recommendations as to the feasibility and cost of conducting periodic sample surveys, by region and nationwide, of the number and dollar amount of commercial and industrial loans extended by commercial banks to small business. Reports shall, when transmitted to the Congress, be referred to the Senate Select Committee on Small Business and the Committee on Small Business of the House of Representatives.

Referral to congressional committees.

TITLE V—EMPLOYEE OWNERSHIP

Small Business Employee Ownership Act of 1980.
15 USC 631 note.

SEC. 501. This title may be cited as the "Small Business Employee Ownership Act of 1980".

Findings and declaration.
15 USC 636 note.

SEC. 502. The Congress hereby finds and declares that—

(1) employee ownership of firms provides a means for preserving jobs and business activity;

(2) employee ownership of firms provides a means for keeping a small business small when it might otherwise be sold to a conglomerate or other large enterprise;

(3) employee ownership of firms provides a means for creating a new small business from the sale of a subsidiary of a large enterprise;

(4) unemployment insurance programs, welfare payments, and job creation programs are less desirable and more costly for both the Government and program beneficiaries than loan guarantee programs to maintain employment in firms that would otherwise be closed, liquidated, or relocated; and

(5) by guaranteeing loans to qualified employee trusts and similar employee organizations, the Small Business Administration can provide feasible and desirable methods for the transfer of all or part of the ownership of a small business concern to its employees.

Purposes.
15 USC 636 note.

SEC. 503. (a) The purposes of this title are—

(1) to provide that a qualified employee trust shall be eligible for loan guarantees under section 7(a) of the Small Business Act with respect to a small business concern, regardless of the percentage of stock of the concern held by the trust, and

15 USC 636, *post*, p. 852.

(2) to provide in section 505 of this Act authority to address the specific case in which the Small Business Administration guarantees loans under section 7(a) of the Small Business Act for purposes of providing funds to a qualified employee trust (and other employee organizations which are treated as qualified employee trusts) for the purchase, by at least 51 percent of the employees, of at least 51 percent of the stock of a business which is operated for profit and which is—

(A) a small business concern, or

(B) a corporation which is controlled by another person if, after the plan for the purchase of such corporation is carried out, such corporation would be a small business concern.

(b) Nothing in this title shall be construed to prohibit the Small Business Administration from making loan guarantees under section 7(a) of the Small Business Act to qualified employee trusts which own less than 51 percent of the stock of a continuing business.

15 USC 632.

SEC. 504. Section 3 of the Small Business Act is amended by adding at the end thereof the following new subsection:

Loan guarantee eligibility.
15 USC 636, *post*, p. 852.

"(c)(1) For purposes of this Act, a qualified employee trust shall be eligible for any loan guarantee under section 7(a) with respect to a small business concern on the same basis as if such trust were the same legal entity as such concern.

"Qualified employee trust."

"(2) For purposes of this Act, the term 'qualified employee trust' means, with respect to a small business concern, a trust—

"(A) which forms part of an employee stock ownership plan (as defined in section 4975(e)(7) of the Internal Revenue Code of 1954)—

26 USC 4975.

"(i) which is maintained by such concern, and

"(ii) which provides that each participant in the plan is entitled to direct the plan as to the manner in which voting rights under qualifying employer securities (as defined in section 4975(e)(8) of such Code) which are allocated to the account of such participant are to be exercised with respect to a corporate matter which (by law or charter) must be decided by a majority vote of outstanding common shares voted; and

"(B) in the case of any loan guarantee under section 7(a), the trustee of which enters into an agreement with the Administrator which is binding on the trust and on such small business concern and which provides that—

"(i) the loan guaranteed under section 7(a) shall be used solely for the purchase of qualifying employer securities of such concern,

"(ii) all funds acquired by the concern in such purchase shall be used by such concern solely for the purposes for which such loan was guaranteed,

"(iii) such concern will provide such funds as may be necessary for the timely repayment of such loan, and the property of such concern shall be available as security for repayment of such loan, and

"(iv) all qualifying employer securities acquired by such trust in such purchase shall be allocated to the accounts of participants in such plan who are entitled to share in such allocation, and each participant has a nonforfeitable right, not later than the date such loan is repaid, to all such qualifying employer securities which are so allocated to the participant's account.

"(3) Under regulations which may be prescribed by the Administrator, a trust may be treated as a qualified employee trust with respect to a small business concern if—

"(A) the trust is maintained by an employee organization which represents at least 51 percent of the employees of such concern, and

"(B) such concern maintains a plan—

"(i) which is an employee benefit plan which is designed to invest primarily in qualifying employer securities (as defined in section 4975(e)(8) of the Internal Revenue Code of 1954),

26 USC 4975.

"(ii) which provides that each participant in the plan is entitled to direct the plan as to the manner in which voting rights under qualifying employer securities which are allocated to the account of such participant are to be exercised with respect to a corporate matter which (by law or charter) must be decided by a majority vote of the outstanding common shares voted,

"(iii) which provides that each participant who is entitled to distribution from the plan has a right, in the case of qualifying employer securities which are not readily tradable on an established market, to require that the concern repurchase such securities under a fair valuation formula, and

"(iv) which meets such other requirements (similar to requirements applicable to employee stock ownership plans as defined in section 4975(e)(7) of the Internal Revenue Code of 1954) as the Administrator may prescribe, and

15 USC 636.

"(C) in the case of a loan guarantee under section 7(a), such organization enters into an agreement with the Administration which is described in paragraph (2)(B).".

SEC. 505. Section 7(a) of the Small Business Act is amended by adding at the end thereof the following new paragraph:

Loan guarantee.

"(8)(A) The Administration may guarantee under subsection (a) a loan to a qualified employee trust with respect to a small business concern for the purpose of purchasing stock of the concern under a plan approved by the Administrator which, when carried out, results in the qualified employee trust owning at least 51 percent of the stock of the concern.

"(B) The plan requiring the Administrator's approval under subparagraph (A) shall be submitted to the Administration by the trustee of such trust with its application for the guarantee. Such plan shall include an agreement with the Administrator which is binding on such trust and on the small business concern and which provides that— Plan, submittal to SBA.

"(i) not later than the date the loan guaranteed under subparagraph (A) is repaid (or as soon thereafter as is consistent with the requirements of section 401(a) of the Internal Revenue Code of 1954), at least 51 percent of the total stock of such concern shall be allocated to the accounts of at least 51 percent of the employees of such concern who are entitled to share in such allocation, 26 USC 401.

"(ii) there will be periodic reviews of the role in the management of such concern of employees to whose accounts stock is allocated, and Periodic review.

"(iii) there will be adequate management to assure management expertise and continuity.

"(C) In determining whether to guarantee any loan under this paragraph, the individual business experience or personal assets of employee-owners shall not be used as criteria, except inasmuch as certain employee-owners may assume managerial responsibilities, in which case business experience may be considered. Loan guarantee criteria, restriction.

"(D) For purposes of this paragraph, a corporation which is controlled by any other person shall be treated as a small business concern if such corporation would, after the plan described in subparagraph (B) is carried out, be treated as a small business concern.

"(E) The Administrator shall compile a separate list of applications for assistance under this paragraph, indicating which applications were accepted and which were denied, and shall report periodically to the Congress on the status of employee-owned firms assisted by the Administration.". Applications list; report to Congress.

SEC. 506. (a) The Administrator of the Small Business Administration shall enter into a contract with an independent consultant which provides for a study by such consultant of the feasibility of making loan guarantees under section 7(a) of the Small Business Act directly to the seller of a small business concern in connection with the installment sale of such concern. Such study shall include an analysis of at least the following: Feasibility study by independent consultant.

(1) the extent and nature of the use of installment sales for the sale of small business concerns,

(2) the ability of the Small Business Administration to make credit judgments in connection with installment sales,

(3) the need for Small Business Administration loan guarantees to facilitate installment sales,

(4) the willingness of banks and other financial institutions to participate in the evaluation of installment sales, and

(5) the anticipated cost of such a guarantee program in comparison to other loan guarantee programs of the Small Business Administration.

Nothing in this section shall be construed as authorizing the Administrator to enter into contracts or incur obligations except to such extent and in such amounts as are provided in appropriations Acts.

Feasibility study, transmittal to congressional committees.

(b) Not later than April 1, 1981, the Administrator of the Small Business Administration shall transmit the findings of such study, along with his recommendations, to the Senate Select Committee on Small Business and the Committee on Small Business of the House of Representatives.

Effective date. 15 USC 631 note.

SEC. 507. This Act shall take effect October 1, 1980.

Approved July 2, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 96-998 accompanying H.R. 7297 (Comm. on Small Business) and No. 96-1087 (Comm. of Conference).
SENATE REPORT No. 96-703 (Comm. on Small Business).
CONGRESSIONAL RECORD, Vol. 126 (1980):
May 28, considered and passed Senate.
June 3, H.R. 7297 considered and passed House; passage vacated and S. 2698, amended, passed in lieu.
June 17, Senate agreed to conference report.
June 19, House agreed to conference report; receded from its amendment to title of bill.
[See also the following bills and their accompanying reports: H.R. 7250, H.R. 7259, H.R. 7288, H.R. 7289, H.R. 7298]
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 16, No. 27:
July 2, Presidential statement.

Public Law 96-303
96th Congress

An Act

To provide for the display of the Code of Ethics for Government Service.

July 3, 1980
[H.R. 5997]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, under such regulations as the Administrator shall prescribe, each agency shall display in appropriate areas of Federal buildings copies of the Code of Ethics for Government Service.

Code of Ethics for Government Service.
Display in Federal buildings; GSA regulations.
5 USC 7301 note.

SEC. 2. (a) The Administrator shall provide for the publication of copies of such Code of Ethics and for their distribution to agencies for use under the first section of this Act.

Publication and distribution.
5 USC 7301 note.

(b) The Administrator may accept on behalf of the United States any unconditional gift made for purposes of this Act.

Gifts.

SEC. 3. For purposes of this Act—

Definitions.
5 USC 7301 note.

(1) the term "agency" means an Executive agency (as defined by section 105 of title 5, United States Code), the United States Postal Service, and the Postal Rate Commission;

(2) the term "Administrator" means the Administrator of the General Services Administration;

(3) the Code of Ethics for Government Service shall read as follows—

CODE OF ETHICS FOR GOVERNMENT SERVICE

Any person in Government service should:

I. Put loyalty to the highest moral principles and to country above loyalty to persons, party, or Government department.

II. Uphold the Constitution, laws, and regulations of the United States and of all governments therein and never be a party to their evasion.

III. Give a full day's labor for a full day's pay; giving earnest effort and best thought to the performance of duties.

IV. Seek to find and employ more efficient and economical ways of getting tasks accomplished.

V. Never discriminate unfairly by the dispensing of special favors or privileges to anyone, whether for remuneration or not; and never accept, for himself or herself or for family members, favors or benefits under circumstances which might be construed by reasonable persons as influencing the performance of governmental duties.

VI. Make no private promises of any kind binding upon the duties of office, since a Government employee has no private word which can be binding on public duty.

VII. Engage in no business with the Government, either directly or indirectly, which is inconsistent with the conscientious performance of governmental duties.

VIII. Never use any information gained confidentially in the performance of governmental duties as a means of making private profit.

IX. Expose corruption wherever discovered.

X. Uphold these principles, ever conscious that public office is a public trust.

Your agency ethics official and the Office of Government Ethics are available to answer questions on conflicts of interest; and

"Federal building."

(4) the term "Federal building" means any building in which at least 20 individuals are regularly employed by an agency as civilian employees.

Effective date.
5 USC 7301 note.

SEC. 4. The provisions of this Act shall take effect October 1, 1980.

Costs.

There shall be no costs imposed on the Federal Government for the printing, framing or other preparation of the Code of Ethics for Government Service under this Act.

Approved July 3, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1073 (Comm. on Post Office and Civil Service).
CONGRESSIONAL RECORD, Vol. 126 (1980):
June 9, 10, considered and passed House.
June 13, considered and passed Senate, amended.
July 27, House agreed to Senate amendments.

Public Law 96-304
96th Congress

An Act

Making supplemental appropriations for the fiscal year ending September 30, 1980, rescinding certain budget authority, and for other purposes.

July 8, 1980
[H.R. 7542]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, to supply supplemental appropriations (this Act may be cited as the "Supplemental Appropriations and Rescission Act, 1980") for the fiscal year ending September 30, 1980, that the following rescissions of budget authority are made, and for other purposes, namely:

Supplemental Appropriations and Rescission Act, 1980.

TITLE I

CHAPTER I

DEPARTMENT OF AGRICULTURE

SCIENCE AND EDUCATION ADMINISTRATION

SCIENTIFIC ACTIVITIES OVERSEAS

(RESCISSION)

Of the funds appropriated under this head in Public Law 96-108, making appropriations for fiscal year 1980, $1,200,000 are rescinded. 93 Stat. 822.

COOPERATIVE RESEARCH

(RESCISSION)

Of the funds appropriated under this head in Public Law 96-108, making appropriations for special research grants for fiscal year 1980, $2,500,000 are rescinded.

Of the funds appropriated under this head in Public Law 96-108, making appropriations for competitive research grants for fiscal year 1980, $500,000 are rescinded.

FARMERS HOME ADMINISTRATION

AGRICULTURAL CREDIT INSURANCE FUND

For an additional amount for "farm ownership loans", $100,000,000.

WATER AND WASTE DISPOSAL GRANTS

(RESCISSION)

Of the funds appropriated under this head in Public Law 96-108, making appropriations for fiscal year 1980, $10,000,000 are rescinded.

MUTUAL AND SELF-HELP HOUSING

(RESCISSION)

92 Stat. 1083.
93 Stat. 831.

Of the funds appropriated under this head in Public Laws 95-448 and 96-108, making appropriations for fiscal years 1979 and 1980, $10,000,000 are rescinded.

RURAL DEVELOPMENT PLANNING GRANTS

(RESCISSION)

93 Stat. 832.

Of the funds appropriated under this head in Public Law 96-108, making appropriations for fiscal year 1980, $1,000,000 are rescinded.

SOIL CONSERVATION SERVICE

CONSERVATION OPERATIONS

For an additional amount for "Conservation Operations", $3,000,000, to remain available until September 30, 1981.

WATERSHED AND FLOOD PREVENTION OPERATIONS

16 USC 2203-2205.

For an additional amount for emergency measures as provided by sections 403-405 of the Agricultural Credit Act of 1978, $20,000,000, to remain available until expended: *Provided*, That these funds shall be available to pay for up to 90 percent of the costs of the emergency measures.

WATERSHED AND FLOOD PREVENTION OPERATIONS

(RESCISSION)

93 Stat. 834.

Of the funds appropriated under this head in Public Law 96-108, making appropriations available for fiscal year 1980, $2,000,000 are rescinded.

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

EMERGENCY CONSERVATION PROGRAM

For an additional amount for "Emergency Conservation Program", $20,000,000, to remain available until expended.

FOOD AND NUTRITION SERVICE

CHILD NUTRITION PROGRAMS

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Child Nutrition Programs", $312,400,000, of which up to $243,000,000 may be transferred to and merged with the Food Stamp Program Appropriation.

SPECIAL MILK PROGRAM

For an additional amount for the "Special Milk Program", $14,800,000: *Provided,* That none of the funds appropriated in this Act may be used for payments which exceed five cents per half-pint of milk served after September 1, 1980, which is served to children who are not eligible for free milk and which is served in schools, child care institutions, and summer camps participating in meal service programs authorized under the National School Lunch Act and the Child Nutrition Act of 1966. 42 USC 1751 note. 42 USC 1771 note.

SPECIAL SUPPLEMENTAL FOOD PROGRAMS (WIC)

For an additional amount for the "Commodity Supplemental Food Program", $250,000.

FOOD STAMP PROGRAM

For an additional amount for the "Food Stamp Program", $203,226,000.

FOOD DONATIONS PROGRAMS

For an additional amount for the "Food Donations Programs", $16,044,000.

FOOD PROGRAM ADMINISTRATION

(RESCISSION)

Of the funds appropriated under this head in Public Law 96-108, making appropriations available for fiscal year 1980, $500,000 are rescinded. 93 Stat. 839.

PUBLIC LAW 480

For an additional amount for "Public Law 480", $142,860,000. The authorized program level and the amount appropriated for titles I and III shall be increased by $20,000,000, and the authorized program level and the amount appropriated for title II shall be increased by $122,860,000. 93 Stat. 839. 7 USC 1701, 1727. 7 USC 1721.

CHAPTER II

DEPARTMENT OF DEFENSE—MILITARY

MILITARY PERSONNEL

MILITARY PERSONNEL, ARMY

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Military personnel, Army", $43,073,000, and in addition, $46,919,000, of which $849,000 shall be derived by transfer from "Aircraft procurement, Army, 1978/1980"; $357,000 shall be derived by transfer from "Missile procurement, Army, 1978/1980"; $1,161,000 shall be derived by transfer from "Procurement of weapons and tracked combat vehicles, Army, 1978/1980"; $15,104,000 shall be derived by transfer from "Procurement of ammunition, Army, 1978/1980"; $10,048,000 shall be derived by transfer from "Other procurement, Army, 1978/1980"; $2,000,000 shall be derived by transfer from "Research, development, test, and evaluation, Army, 1979/1980"; $497,000 shall be derived by transfer from "Aircraft procurement, Army, 1979/1981"; $91,000 shall be derived by transfer from "Missile procurement, Army, 1979/1981"; $655,000 shall be derived by transfer from "Procurement of weapons and tracked combat vehicles, Army, 1979/1981"; $1,557,000 shall be derived by transfer from "Procurement of ammunition, Army, 1979/1981"; and $14,600,000 shall be derived by transfer from "Other procurement, Army, 1980/1982".

MILITARY PERSONNEL, NAVY

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Military personnel, Navy", $24,500,000, and in addition, $24,572,000 which shall be derived by transfer from "Weapons procurement, Navy, 1978/1980".

MILITARY PERSONNEL, MARINE CORPS

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Military personnel, Marine Corps", $6,200,000, and in addition, $8,121,000 which shall be derived by transfer from "Weapons procurement, Navy, 1978/1980".

MILITARY PERSONNEL, AIR FORCE

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Military personnel, Air Force", $32,680,000, and in addition, $26,646,000, of which $16,000,000 shall be derived by transfer from "Aircraft procurement, Air Force, 1978/1980"; $7,500,000 shall be derived by transfer from "Missile procurement, Air Force, 1978/1980"; and $3,146,000 shall be derived by transfer from "Other procurement, Air Force, 1978/1980".

RESERVE PERSONNEL, NAVY

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Reserve personnel, Navy", $2,329,000, and in addition, $1,775,000 which shall be derived by transfer from "Weapons procurement, Navy, 1978/1980": *Provided*, That the funds available from this appropriation may be used to reimburse Navy Reservists travelling under permissive orders to active duty for training.

RESERVE PERSONNEL, MARINE CORPS

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Reserve personnel, Marine Corps", $1,000,000, and in addition, $1,108,000 which shall be derived by transfer from "Aircraft procurement, Navy, 1978/1980".

RETIRED MILITARY PERSONNEL

RETIRED PAY, DEFENSE

For an additional amount for "Retired pay, Defense", $513,200,000.

OPERATION AND MAINTENANCE

OPERATION AND MAINTENANCE, ARMY

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Operation and maintenance, Army, $410,200,000, and in addition, $67,856,000, of which $397,000 shall be derived by transfer from "Procurement of ammunition, Army, 1979/1981"; $2,562,000 shall be derived by transfer from "Operation and maintenance, Defense Agencies, 1980"; $1,100,000 shall be derived by transfer from "Aircraft procurement, Army, 1980/1982"; $26,600,000 shall be derived by transfer from "Procurement of weapons and tracked combat vehicles, Army, 1980/1982"; $3,000,000 shall be derived by transfer from "Missile procurement, Army, 1980/1982"; and $34,197,000 shall be derived by transfer from the subdivision "FFG–7 guided missile frigate program" of "Shipbuilding and conversion, Navy, 1980/1984".

OPERATION AND MAINTENANCE, NAVY

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Operation and maintenance, Navy", $1,010,218,000, and in addition, $245,600,000, of which $58,609,000 shall be derived by transfer from "Aircraft procurement, Air Force, 1978/1980"; $6,892,000 shall be derived by transfer from "Aircraft procurement, Navy, 1978/1980"; $532,000 shall be derived by transfer from "Weapons procurement, Navy, 1978/1980"; $5,900,000 shall be derived by transfer from "Other procurement, Navy, 1978/1980"; $6,700,000 shall be derived by transfer from "Aircraft procurement, Air Force, 1979/1981"; $14,600,000 shall be derived by transfer from "Missile procurement, Air Force, 1979/1981"; $20,000,000 shall be

derived by transfer from "Other procurement, Air Force, 1979/1981"; $8,167,000 shall be derived by transfer from "Research, development, test, and evaluation, Navy, 1979/1980"; $12,000,000 shall be derived by transfer from "Aircraft procurement, Navy, 1979/1981"; $19,000,000 shall be derived by transfer from "Weapons procurement, Navy, 1979/1981"; $5,200,000 shall be derived by transfer from "Other procurement, Navy, 1979/1981"; $10,400,000 shall be derived by transfer from "Procurement of weapons and tracked combat vehicles, Army, 1980/1982"; $40,900,000 shall be derived by transfer from "Aircraft procurement, Navy, 1980/1982"; $6,000,000 shall be derived by transfer from the subdivision "FFG-7 guided missile frigate program" of "Shipbuilding and conversion, Navy, 1980/1984"; $7,300,000 shall be derived by transfer from "Other procurement, Navy, 1980/1982"; $8,400,000 shall be derived by transfer from "Research, development, test and evaluation, Navy, 1980/1981"; and $15,000,000 shall be derived by transfer from "Operation and maintenance, Navy Reserve, 1980".

OPERATION AND MAINTENANCE, MARINE CORPS

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Operation and maintenance, Marine Corps", $30,844,000, and in addition, $27,100,000 which shall be derived by transfer from "Aircraft procurement, Air Force, 1978/1980".

OPERATION AND MAINTENANCE, AIR FORCE

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Operation and maintenance, Air Force", $1,255,209,000, and in addition, $62,445,000, of which $4,100,000 shall be derived by transfer from "Missile procurement, Air Force, 1978/1980"; $31,754,000 shall be derived by transfer from "Other procurement, Air Force, 1978/1980"; $6,891,000 shall be derived by transfer from "Aircraft procurement, Air Force, 1978/1980"; and $9,500,000 shall be derived by transfer from "Missile procurement, Air Force, 1980/1982", $600,000 shall be derived by transfer from "Procurement, Defense Agencies, 1980/1982", and $9,600,000 shall be derived by transfer from "Research, development, test and evaluation, Air Force, 1980/1981".

OPERATION AND MAINTENANCE, ARMY RESERVE

For an additional amount for "Operation and maintenance, Army Reserve", $6,920,000.

OPERATION AND MAINTENANCE, NAVY RESERVE

For an additional amount for "Operation and maintenance, Navy Reserve", $44,977,000.

OPERATION AND MAINTENANCE, MARINE CORPS RESERVE

For an additional amount for "Operation and maintenance, Marine Corps Reserve", $372,000.

OPERATION AND MAINTENANCE, AIR FORCE RESERVE

For an additional amount for "Operation and maintenance, Air Force Reserve", $58,285,000.

OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD

For an additional amount for "Operation and maintenance, Army National Guard", $13,483,000.

OPERATION AND MAINTENANCE, AIR NATIONAL GUARD

For an additional amount for "Operation and maintenance, Air National Guard", $126,990,000.

PROCUREMENT

MISSILE PROCUREMENT, ARMY

(TRANSFER OF FUNDS)

For an additional amount for "Missile procurement, Army, 1980/1982", $2,400,000, which shall be derived by transfer from "Research, development, test and evaluation, Defense Agencies, 1980/1981", to remain available for obligation until September 30, 1982.

PROCUREMENT OF AMMUNITION, ARMY

(TRANSFER OF FUNDS)

For an additional amount for "Procurement of ammunition, Army, 1980/1982", $14,500,000, of which $2,400,000 shall be derived by transfer from "Procurement of weapons and tracked combat vehicles, Army, 1980/1982", and $12,100,000 shall be derived by transfer from "Aircraft procurement, Navy, 1980/1982", to remain available for obligation until September 30, 1982.

OTHER PROCUREMENT, ARMY

(TRANSFER OF FUNDS)

For an additional amount for "Other procurement, Army, 1980/1982", $4,400,000, which shall be derived by transfer from "Procurement of weapons and tracked combat vehicles, Army, 1980/1982", to remain available for obligation until September 30, 1982.

WEAPONS PROCUREMENT, NAVY

(TRANSFER OF FUNDS)

For an additional amount for "Weapons procurement, Navy, 1980/1982", $3,700,000, which shall be derived by transfer from "Procurement of weapons and tracked combat vehicles, Army, 1980/1982", to remain available for obligation until September 30, 1982.

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SHIPBUILDING AND CONVERSION, NAVY

(TRANSFER OF FUNDS)

For an additional amount for "Shipbuilding and conversion, Navy, 1980/1984", $9,920,000, as follows: $600,000 for the Trident submarine program; $9,000,000 for the SSN-688 nuclear attack submarine program; $200,000 for the T-AGOS SURTASS ship program; and $120,000 for craft, outfitting, post delivery, cost growth, and escalation on prior year programs; to be derived by transfer from the subdivision "FFG-7 guided missile frigate program" of "Shipbuilding and conversion, Navy, 1980/1984", to remain available until September 30, 1984.

AIRCRAFT PROCUREMENT, AIR FORCE

(TRANSFER OF FUNDS)

For an additional amount for "Aircraft procurement, Air Force, 1980/1982", $17,000,000, which shall be derived by transfer from the subdivision "FFG-7 guided missile frigate program" of "Shipbuilding and conversion, Navy, 1980/1984", to remain available until September 30, 1982.

OTHER PROCUREMENT, AIR FORCE

(TRANSFER OF FUNDS)

For an additional amount for "Other procurement, Air Force, 1980/1982", $68,000,000, of which $18,517,000 shall be derived by transfer from "Aircraft procurement, Air Force, 1980/1982"; $33,383,000 shall be derived by transfer from the subdivision "FFG-7 guided missile frigate program" of "Shipbuilding and conversion, Navy, 1980/1984"; $10,100,000 shall be derived by transfer from "Research, development, test and evaluation, Air Force, 1979/1980", and $6,000,000 shall be derived by transfer from "Other procurement, Air Force, 1978/1980", to remain available for obligation until September 30, 1982.

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, ARMY

(TRANSFER OF FUNDS)

For an additional amount for "Research, development, test, and evaluation, Army, 1980/1981", $1,200,000, which shall be derived by transfer from "Procurement of weapons and tracked combat vehicles, Army, 1980/1982", to remain available for obligation until September 30, 1981.

GENERAL PROVISIONS

(INCLUDING TRANSFERS OF FUNDS)

The limitation contained in section 749 of the Department of Defense Appropriation Act, 1980, is increased to $27,000,000. 93 Stat. 1160.

Of the amount appropriated in the appropriation, "Shipbuilding and conversion, Navy", $96,800,000 which would expire for obligation on September 30, 1980 shall remain available for obligation until September 30, 1982. Funds provided in a Department of Defense Appropriation Act for "Shipbuilding and conversion, Navy", currently available for obligation, may hereafter be transferred within the same appropriation contained in such an Act between the subdivisions thereof, subject to the notification and approval procedures specified in section 734 of the Department of Defense Appropriation Act, 1980. 93 Stat. 1147. 93 Stat. 1158.

The amount that may be transferred pursuant to section 734 of the Department of Defense Appropriation Act, 1980, is hereby increased to $1,000,000,000.

Appropriations or funds available to the Department of Defense may be transferred to fiscal year 1980 Department of Defense appropriations for Research, development, test, and evaluation to the extent necessary to meet increased pay costs authorized by or pursuant to law.

CHAPTER III

FUNDS APPROPRIATED TO THE PRESIDENT

Special Migration and Refugee Assistance

For expenses necessary for the President to provide resettlement assistance pursuant to section 405(c)(2) of the International Security and Development Assistance Act of 1980, or pursuant to the Refugee Act of 1980, or pursuant to the Immigration and Nationality Act, not to exceed $100,000,000, to remain available until expended. Of the foregoing amount $50,000,000 shall become available on October 1, 1980. Funds appropriated in this paragraph shall be available solely for reimbursement to State and local governments for fiscal years 1980 and 1981 for cash and medical assistance and social services costs related to Cuban/Haitian entrants (status pending) only to the extent that such assistance shall become authorized under the Immigration and Nationality Act, the Refugee Act of 1980 or the International Security Act of 1980. *Ante*, p. 102. 8 USC 1101 note.

CHAPTER IV

TEMPORARY COMMISSION ON FINANCIAL OVERSIGHT OF THE DISTRICT OF COLUMBIA

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $6,500,000, to remain available until expended.

DISTRICT OF COLUMBIA

Federal Funds

FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA

For an additional amount for "Federal payment to the District of Columbia", for the fiscal year ending September 30, 1980, $38,300,000,

as authorized by the District of Columbia Self-Government and Governmental Reorganization Act, Public Law 93-198, as amended (D.C. Code 47-2501d), of which $12,464,100 shall be solely for the District of Columbia contribution to the Police Officers and Firefighters', Teachers', and Judges' Retirement Funds as authorized by Public Law 96-122, approved November 17, 1979 (93 Stat. 866).

For the Federal contribution to the Police Officers and Fire Fighters', Teachers', and Judges' Retirement Funds as authorized by Public Law 96-122, approved November 17, 1979 (93 Stat. 866), $52,070,000.

LOANS TO THE DISTRICT OF COLUMBIA FOR CAPITAL OUTLAY

(RESCISSION)

Loan authority provided under this head in the District of Columbia Appropriation Act, 1980 (Public Law 96-93, approved October 30, 1979), is hereby rescinded in the amount of $21,129,700.

93 Stat. 713.

DISTRICT OF COLUMBIA FUNDS

GOVERNMENTAL DIRECTION AND SUPPORT

For an additional amount for "Governmental direction and support", $6,610,900: *Provided,* That $6,500,000 of this appropriation, to remain available until expended, together with previous appropriations for this purpose shall be for the District of Columbia's contribution toward the expenses of the Temporary Commission on Financial Oversight of the District of Columbia, as authorized by Public Law 94-399, approved September 4, 1976, as amended, and shall be transferred to the Commission upon request of the Executive Director and the General Accounting Office.

D.C. Code 47-101 note.

PUBLIC SAFETY AND JUSTICE

For an additional amount for "Public safety and justice", $3,278,600, of which $1,400,000 shall be available solely for payment to the Federal Bureau of Prisons.

PUBLIC EDUCATION SYSTEM

(INCLUDING RESCISSION)

For an additional amount for "Public education system", $2,903,300 for the District of Columbia Public Schools: *Provided,* That $6,177,400 in budget authority for the District of Columbia Public Schools appropriated under this head in the District of Columbia Appropriation Act, 1980 (Public Law 96-93, approved October 30, 1979), is hereby rescinded.

93 Stat. 715.

HUMAN SUPPORT SERVICES

For an additional amount for "Human support services", $9,500,000: *Provided,* That $2,227,700 of this appropriation shall be available solely for reimbursements to Saint Elizabeths Hospital: *Provided further,* That total reimbursements to Saint Elizabeths Hospital, including funds from title XIX of the Social Security Act, shall not exceed $20,919,500.

42 USC 1396.

ENVIRONMENTAL SERVICES AND SUPPLY

For an additional amount for "Environmental services and supply", $3,710,100.

PERSONAL SERVICES

For an additional amount for "Personal services", $5,167,000.

PENSION FUNDS

For payment to the Police Officers and Fire Fighters', Teachers', and Judges' Retirement Funds as authorized by Public Law 96-122, approved November 17, 1979 (93 Stat. 866), $16,997,900.

CAPITAL OUTLAY

For an additional amount for "Capital outlay", to remain available until expended, $6,816,200: *Provided*, That $260,000 shall be available for construction services by the Director of the Department of General Services or by contract for architectural engineering services, as may be determined by the Mayor, and the funds for the use of the Director of the Department of General Services shall be advanced to the appropriation account "Construction services, Department of General Services".

DIVISION OF EXPENSES

The sums appropriated herein for the District of Columbia shall be paid out of the general fund of the District of Columbia, except as otherwise specifically provided.

CHAPTER V

DEPARTMENT OF ENERGY

Operating Expenses

ENERGY SUPPLY, RESEARCH AND DEVELOPMENT ACTIVITIES

For an additional amount for "Operating Expenses, Energy Supply, Research and Development Activities", $13,000,000, to remain available until expended.

(RESCISSION AND DEFERRAL)

Of the funds appropriated for "Operating Expenses, Energy Supply, Research and Development Activities" in Public Law 96-69 and other Acts making appropriations for Energy and Water Development, $44,350,000 are rescinded, and $50,500,000 are deferred for obligation until October 1, 1980. 93 Stat. 437.

OPERATING EXPENSES

URANIUM SUPPLY AND ENRICHMENT ACTIVITIES

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Operating Expenses, Uranium Supply and Enrichment Activities", $235,600,000, to remain available until expended, of which $50,000,000 shall be derived from funds previously appropriated for contract prefinancing accounts for uranium enrichment activities and which sum is to be restored to the contract prefinancing accounts from anticipated fiscal year 1981 revenues from enriching services.

(RESCISSION)

93 Stat. 437.

Of the funds appropriated for "Operating Expenses, Uranium Supply and Enrichment Activities" in Public Law 96-69 and other Acts making appropriations for Energy and Water Development, $4,000,000 are rescinded.

OPERATING EXPENSES

GENERAL SCIENCE AND RESEARCH ACTIVITIES

(RESCISSION)

Of the funds appropriated for "Operating Expenses, General Science and Research Activities", in Public Law 96-69 and other Acts making appropriations for Energy and Water Development, $2,000,000 are rescinded.

OPERATING EXPENSES

ATOMIC ENERGY DEFENSE ACTIVITIES

For an additional amount for "Operating Expenses, Atomic Energy Defense Activities", $31,400,000, to remain available until expended.

(RESCISSION AND DEFERRAL)

Of the funds appropriated for "Operating Expenses, Atomic Energy Defense Activities" in Public Law 96-69 and other Acts making appropriations for Energy and Water Development, $6,400,000 are rescinded, and $1,000,000 are deferred for obligation until October 1, 1980.

OPERATING EXPENSES

DEPARTMENTAL ADMINISTRATION

Notwithstanding the provisions of Public Law 96-69 appropriating $6,165,000 for the Office of the Inspector General, those funds determined by that Office to be in excess of the amount required to pay for the salaries and expenses of that Office shall be made available for obligation for the salaries and expenses of other organizations funded by this appropriation.

(RESCISSION)

Of the funds appropriated for "Operating Expenses, Departmental Administration" in Public Law 96-69 and other Acts making appropriations for Energy and Water Development, $31,725,000 are rescinded. 93 Stat. 438.

PLANT AND CAPITAL EQUIPMENT

ENERGY SUPPLY, RESEARCH AND DEVELOPMENT ACTIVITIES

(RESCISSION AND DEFERRAL)

Of the funds appropriated for "Plant and Capital Equipment, Energy Supply, Research and Development Activities" in Public Law 96-69 and other Acts making appropriations for Energy and Water Development, $5,150,000 are rescinded, and $8,000,000 are deferred pending submission to and approval by the cognizant committees of Congress of an appropriate plan for utilization of Project 76-2-b, Ten Megawatt Central Receiver Solar Thermal Power Plant, as a solar repowering test facility to meet repowering objectives for the solar central receiver concept.

PLANT AND CAPITAL EQUIPMENT

URANIUM SUPPLY AND ENRICHMENT ACTIVITIES

(DEFERRAL)

Of the funds appropriated and the Uranium Enrichment Revenues Applied for "Plant and Capital Equipment, Uranium Supply and Enrichment Activities" as provided in Public Law 96-69 and other Acts making appropriations for Energy and Water Development, $185,000,000 are deferred for obligation until October 1, 1980.

PLANT AND CAPITAL EQUIPMENT

GENERAL SCIENCE AND RESEARCH ACTIVITIES

(DEFERRAL)

Of the funds appropriated for "Plant and Capital Equipment, General Science and Research Activities" in Public Law 96-69 and other Acts making appropriations for Energy and Water Development, $5,000,000 are deferred for obligation until October 1, 1980.

PLANT AND CAPITAL EQUIPMENT

ATOMIC ENERGY DEFENSE ACTIVITIES

For an additional amount for "Plant and Capital Equipment, Atomic Energy Defense Activities", $6,600,000, to remain available until expended.

(DEFERRAL)

Of the funds appropriated for "Plant and Capital Equipment, Atomic Energy Defense Activities" in Public Law 96-69 and other

Acts making appropriations for Energy and Water Development, $30,000,000 are deferred for obligation until October 1, 1980.

PLANT AND CAPITAL EQUIPMENT

DEPARTMENTAL ADMINISTRATION

For an additional amount for "Plant and Capital Equipment, Departmental Administration", $1,550,000, to remain available until expended.

(DEFERRAL)

93 Stat. 438.

Of the funds appropriated for "Plant and Capital Equipment, Departmental Administration" in Public Law 96-69 and other Acts making appropriations for Energy and Water Development, $6,000,000 are deferred for obligation until October 1, 1980.

FEDERAL ENERGY REGULATORY COMMISSION

For an additional amount for "Federal Energy Regulatory Commission", $1,200,000.

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

CONSTRUCTION, GENERAL

For an additional amount for "Construction, General", $180,000,000, to remain available until expended: *Provided*, That funds are included in this Act for the Twenty Mile Creek, Mississippi, project which shall be used for the design and construction of grade stabilization structures along Twenty Mile Creek, in Lee, Itawamba, and Prentiss Counties, Mississippi, between mile 11.7 and mile 22.0: *Provided further*, That funds are included in this Act for the site 3 Hollywood-Ardmore Beach Area in Chicago, Illinois, which shall be used for the design and construction of a retaining wall and related backfill and grading in accordance with the Reconnaissance Report on Chicago Lakefront prepared by the Chicago District Corps of Engineers, of January 1980, and Supplemental Report, March 1980, and section 3 of the Flood Control Act of June 22, 1936.

33 USC 701c.

FLOOD CONTROL, MISSISSIPPI RIVER AND TRIBUTARIES

Appropriations available to "Flood Control, Mississippi River and Tributaries", to the extent required, are to be made available for the Grenada Lake Project, Mississippi, which shall be used, upon concurrence of community officials, for construction and/or implementation of a plan selected by the Corps of Engineers for providing protection to the community of Coffeeville, Mississippi, from high stages, to a level of two hundred thirty-six feet plus three feet of freeboard, on Grenada Lake.

FLOOD CONTROL AND COASTAL EMERGENCIES

For expenses necessary for flood control and coastal emergencies, $170,000,000, to remain available until expended. Any activity undertaken by virtue of funds appropriated herein for the relief of the emergency situation created by the eruptions of the volcano at Mount Saint Helens in Washington State is not prohibited by or otherwise subject to regulation under section 301, 402, or 404 of the Federal Water Pollution Control Act of 1972, as amended, or section 10 of the River and Harbor Act of 1899: *Provided,* That as expeditiously as possible, consistent with the protection of the public interests through the continuation of the emergency dredging, disposal, and related activities neccessary, the Corps of Engineers shall initiate accelerated and abbreviated procedures, including as is appropriate, public notices and opportunities for public hearings, for such activities under section 404 of the Federal Water Pollution Control Act of 1972, as amended, and section 10 of the River and Harbor Act of 1899.

33 USC 1311, 1342, 1344.
33 USC 403.

OPERATION AND MAINTENANCE, GENERAL

For an additional amount for "Operation and Maintenance, General", $70,000,000, to remain available until expended. Any activity undertaken by virtue of funds appropriated herein for the relief of the emergency situation created by the eruptions of the volcano at Mount Saint Helens in Washington State is not prohibited by or otherwise subject to regulation under section 301, 402, or 404 of the Federal Water Pollution Control Act of 1972, as amended, or section 10 of the River and Harbor Act of 1899: *Provided,* That as expeditiously as possible, consistent with the protection of the public interests through the continuation of the emergency dredging, disposal, and related activities necessary, the Corps of Engineers shall initiate accelerated and abbreviated procedures, including as is appropriate, public notices and opportunities for public hearings, for such activities under section 404 of the Federal Water Pollution Control Act of 1972, as amended and section 10 of the River and Harbor Act of 1899.

ALASKA HYDROELECTRIC POWER DEVELOPMENT FUND

(RESCISSION)

Of the funds appropriated for "Alaska Hydroelectric Power Development Fund" in Public Law 95-240, making supplemental appropriations, $5,450,000 are rescinded.

92 Stat. 113.

ADMINISTRATIVE PROVISIONS

The limitation under this head in Public Law 96-69, the Energy and Water Development Appropriation Act, 1980, for expenditures of the capital investment program of the revolving fund is increased to $140,000,000.

93 Stat. 443.

DEPARTMENT OF THE INTERIOR

WATER AND POWER RESOURCES SERVICE

CONSTRUCTION AND REHABILITATION

(TRANSFER OF FUNDS)

For an additional amount for "Construction and Rehabilitation", $32,450,000 and, in addition, $9,700,000 for continuing construction of the authorized Garrison Diversion Unit, North Dakota, to remain available until expended, of which $6,750,000 is to be derived by transfer from appropriations available for the "Upper Colorado River Basin Fund", $3,000,000 is to be derived by transfer from advances available to the "Lower Colorado River Basin Development Fund", $4,600,000 is to be derived by transfer from appropriations available to the "Colorado River Basin Salinity Control Projects", $500,000 is to be derived by transfer from appropriations available for "General Investigations", and $17,600,000 is to be derived by transfer from appropriations available to the "Loan Program". None of the funds appropriated in this Act for the Garrison Diversion Unit may be used for the acquisition of mitigation lands by condemnation nor shall such funds be used on features affecting waters flowing into Canada.

LOAN PROGRAM

(RESCISSION)

93 Stat. 445. Of the funds appropriated for "Loan Program" in Public Law 96-69 making appropriations for Energy and Water Development, $3,000,000 are rescinded.

INDEPENDENT AGENCIES

FUNDS APPROPRIATED TO THE PRESIDENT

APPALACHIAN REGIONAL DEVELOPMENT PROGRAMS

(DEFERRAL)

93 Stat. 448. Of the funds appropriated for "Funds Appropriated to the President, Appalachian Regional Development Programs" in Public Law 96-69, $29,300,000, are hereby deferred for obligation until October 1, 1980.

NUCLEAR REGULATORY COMMISSION

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $31,950,000, to remain available until expended.

TENNESSEE VALLEY AUTHORITY

PAYMENT TO TENNESSEE VALLEY AUTHORITY FUND

For an additional amount for "Payment to Tennessee Valley Authority Fund", $74,353,000, to remain available until expended.

WATER RESOURCES COUNCIL

WATER RESOURCES PLANNING

(RESCISSIONS)

Of the funds appropriated for grants to States under title III of the Act (42 U.S.C. 1962c(a)) in Public Law 96-69, making appropriations for Energy and Water and Power Development, $11,000,000 are rescinded. 93 Stat. 450.

Of the funds appropriated for administration and coordination in Public Law 95-96, making appropriations for Public Works for Water and Power Development and Energy Research, $431,000 are rescinded. 91 Stat. 808.

CHAPTER VI

FOREIGN OPERATIONS

FUNDS APPROPRIATED TO THE PRESIDENT

INTERNATIONAL DISASTER ASSISTANCE

For an additional amount to carry out the provisions of section 491 of the Foreign Assistance Act of 1961, as amended, $43,000,000, to remain available until expended. 22 USC 2292.

DISABILITY FUND

For an additional amount for "Payment to the Foreign Service Retirement and Disability Fund", $1,020,000.

OPERATING EXPENSES

For an additional amount for "Operating Expenses of the Agency for International Development", $2,000,000, to remain available until expended.

ECONOMIC SUPPORT FUND

For an additional amount of $80,000,000 for necessary expenses to carry out the provisions of sections 531 through 535: *Provided*, That these funds shall not be available for obligation or expenditure until October 1, 1980. 22 USC 2346-2346d.

CHAPTER VII

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

HOUSING PROGRAMS

ANNUAL CONTRIBUTIONS FOR ASSISTED HOUSING

Title I of the Department of Housing and Urban Development—Independent Agencies Appropriation Act, 1980, under this head is amended by deleting the following: "of which not less than nor more than $50,000,000 shall be for the modernization of existing low-income housing projects". 93 Stat. 771.

HOUSING PAYMENTS

For an additional amount for "Housing payments", $745,037,000.

PAYMENTS FOR OPERATION OF LOW-INCOME HOUSING PROJECTS

For an additional amount for "Payments for operation of low-income housing projects", $13,800,000.

LOW-RENT PUBLIC HOUSING—LOANS AND OTHER EXPENSES, PAYMENTS TO THE FEDERAL FINANCING BANK

(INCLUDING TRANSFER OF FUNDS)

Unobligated balances of authority in the amount of $1,995,325,000 to be transferred from the amounts provided in prior appropriation Acts for section 5(c) of the United States Housing Act of 1937, as
42 USC 1437c. amended (42 U.S.C. 1437(c)) shall be available for contracts for periodic payments to the Federal Financing Bank, as authorized by section 16(b) of Federal Financing Bank Act of 1973 (12 U.S.C. 2294(b)), to offset the cost to the Bank of purchasing obligations of local public housing authorities issued for purposes of financing public housing projects as authorized under section 5(c). $1,995,325,000 shall be available until expended for liquidation of obligations incurred pursuant to these contracts.

GOVERNMENT NATIONAL MORTGAGE ASSOCIATION

SPECIAL ASSISTANCE FUNCTIONS FUND

The amount of purchases and commitments authorized under this head for fiscal year 1980 is further increased by $150,000,000.

COMMUNITY PLANNING AND DEVELOPMENT

COMMUNITY DEVELOPMENT GRANTS

(RESCISSIONS)

Of the funds appropriated under this head as authorized by title I of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301), in the Department of Housing and Urban Development—Independent Agencies Appropriation Act, 1978, $213,152
91 Stat. 1075. appropriated pursuant to section 103(a) of the 1974 Act and available
42 USC 5303. for commitment under section 107(a) of the 1974 Act are rescinded.
42 USC 5307. Of the funds appropriated under this head as authorized by title I of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301), in the Department of Housing and Urban Development—Independent Agencies Appropriation Act, 1979, $28,480,303
92 Stat. 793. are rescinded, of which $11,303,122 shall be from funds appropriated pursuant to section 103(a) of the 1974 Act and available for reallocation
42 USC 5306. pursuant to section 106(e) of the 1974 Act, $14,286,848 shall be from funds appropriated pursuant to section 103(a) of the 1974 Act and available for commitment under section 107(a) of the 1974 Act and $2,890,333 shall be from funds appropriated pursuant to section 103(b) of the 1974 Act.

Of the funds appropriated under this head as authorized by title I of the Housing and Community Development Act of 1974, as amended

(42 U.S.C. 5301), in the Department of Housing and Urban Development—Independent Agencies Appropriation Act, 1980, $95,809,667 are rescinded, of which $10,700,000 shall be from funds appropriated pursuant to section 103(a) of the 1974 Act and available for commitment under section 107(a) of the 1974 Act and $85,109,667 shall be from funds appropriated pursuant to section 103(b) of the 1974 Act. In addition, all funds up to $28,696,878 appropriated pursuant to section 103(a) of the 1974 Act, and available for reallocation pursuant to section 106(e) of the 1974 Act prior to October 1, 1980, are rescinded. 93 Stat. 771. 42 USC 5303. 42 USC 5307. 42 USC 5306.

COMPREHENSIVE PLANNING GRANTS

(RESCISSION)

Of the funds appropriated under this head in the Department of Housing and Urban Development—Independent Agencies Appropriation Act, 1980, $5,000,000 are rescinded. 93 Stat. 774.

REHABILITATION LOAN FUND

(RESCISSION)

Of the funds appropriated under this head in the Department of Housing and Urban Development—Independent Agencies Appropriation Act, 1980, $25,500,000 are rescinded.

POLICY DEVELOPMENT AND RESEARCH

RESEARCH AND TECHNOLOGY

(RESCISSION)

Of the funds appropriated under this head in the Department of Housing and Urban Development—Independent Agencies Appropriation Act, 1980, $5,000,000 are rescinded.

INDEPENDENT AGENCIES

ENVIRONMENTAL PROTECTION AGENCY

RESEARCH AND DEVELOPMENT

For an additional amount for "Research and development", $4,000,000, to remain available until September 30, 1981.

ABATEMENT, CONTROL AND COMPLIANCE

For an additional amount for "Abatement, control and compliance", $4,000,000, to remain available until September 30, 1981.

CONSTRUCTION GRANTS

Of the unobligated funds appropriated under this head in the Department of Housing and Urban Development—Independent Agencies Appropriation Act, 1980, $400,000,000 shall be made available for obligation on the date of enactment of this Act, notwithstanding section 205(c) of the Clean Water Act, based on the most efficient and effective use of these funds. 93 Stat. 777. 33 USC 1285.

UNITED STATES REGULATORY COUNCIL

(RESCISSION)

Of the funds appropriated under this head in the Department of Housing and Urban Development—Independent Agencies Appropriation Act, 1980, $500,000 are rescinded.

93 Stat. 777.

FEDERAL EMERGENCY MANAGEMENT AGENCY

FUNDS APPROPRIATED TO THE PRESIDENT

DISASTER RELIEF

For an additional amount for "Disaster relief", $870,000,000, to remain available until expended.

Section 401 of the Department of Housing and Urban Development—Independent Agencies Appropriation Act, 1980, is amended by adding after the second semicolon in the first proviso, the following: "to travel performed in connection with major disasters or emergencies declared or determined by the President under the provisions of the Disaster Relief Act of 1974: *Provided, however,* That the President is authorized, from funds appropriated to the President, to provide relocation for the families residing within the boundaries defined in the emergency declared by the President on May 21, 1980, at the Love Canal, in the State of New York: *Provided further,* That the Federal share shall not exceed 75 percent of the cost of such relocation. This shall not include the construction of any permanent housing.".

93 Stat. 787.

42 USC 5121 note.

EMERGENCY PLANNING, PREPAREDNESS AND MOBILIZATION

For an additional amount for "Emergency planning, preparedness and mobilization", $1,900,000.

The limitation on travel expenses in the current fiscal year for "Emergency planning, preparedness, and mobilization" is increased by $812,000.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

RESEARCH AND DEVELOPMENT

For an additional amount for "Research and development", $285,000,000, to remain available until September 30, 1981.

NATIONAL CONSUMER COOPERATIVE BANK

SALARIES AND EXPENSES

(RESCISSION)

Of the funds appropriated under this head in the Department of Housing and Urban Development—Independent Agencies Appropriation Act, 1980, $555,000 are rescinded.

93 Stat. 780.

SELF-HELP DEVELOPMENT

(RESCISSION)

Of the funds appropriated under this head in the Department of Housing and Urban Development—Independent Agencies Appropriation Act, 1980, $6,500,000 are rescinded. 93 Stat. 780.

NATIONAL SCIENCE FOUNDATION

RESEARCH AND RELATED ACTIVITIES

(RESCISSION)

Of the funds appropriated under this head in the Department of Housing and Urban Development—Independent Agencies Appropriation Act, 1980, $2,000,000 are rescinded.

SCIENCE EDUCATION ACTIVITIES

(RESCISSION)

Of the funds appropriated under this head in the Department of Housing and Urban Development—Independent Agencies Appropriation Act, 1980, $2,500,000 are rescinded. 93 Stat. 781.

NEIGHBORHOOD REINVESTMENT CORPORATION

SALARIES AND EXPENSES

The limitation on travel expenses in the current fiscal year for the Neighborhood Reinvestment Corporation is increased by $300,000.

VETERANS ADMINISTRATION

GENERAL OPERATING EXPENSES

For an additional amount for "General operating expenses", $5,638,000.

CONSTRUCTION, MAJOR PROJECTS

For an additional amount for "Construction, major projects", $4,000,000, to remain available until expended, of which $1,000,000 is for the advance planning of projects funded through the Advance Planning Fund, and, notwithstanding any other provision of law, $3,000,000 is for construction of facilities in support of the new State medical school at East Tennessee State University.

CHAPTER VIII

DEPARTMENT OF THE INTERIOR

BUREAU OF LAND MANAGEMENT

MANAGEMENT OF LANDS AND RESOURCES

For an additional amount for "Management of lands and resources", $46,800,000: *Provided,* That not to exceed $5,000,000 available under this head for fire suppression may be transferred to the Oregon and California Grant Lands appropriation: *Provided further,* That funds so transferred shall be reimbursed to fire suppression from amounts deposited to the Oregon and California Land Grant Fund at such time as available receipts exceed amounts necessary for western Oregon timber management.

PAYMENTS IN LIEU OF TAXES

(DEFERRAL)

93 Stat. 954.

Of the funds appropriated under this head in the Interior and Related Agencies Appropriation Act, 1980 (Public Law 96-126) $5,000,000 shall not become available for obligation until October 1, 1980, and shall remain available for obligation until September 30, 1981.

OFFICE OF WATER RESEARCH AND TECHNOLOGY

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $2,000,000, to remain available until expended.

HERITAGE CONSERVATION AND RECREATION SERVICE

URBAN PARK AND RECREATION FUND

(DEFERRAL AND RESCISSION)

93 Stat. 957.

Of the funds appropriated under this head in the Interior and Related Agencies Appropriation Act, 1980 (Public Law 96-126) $45,000,000 shall not become available for obligation until October 1, 1980, and $15,000,000 are rescinded.

LAND AND WATER CONSERVATION FUND

(DEFERRAL)

Of the funds appropriated under this head in the Interior and Related Agencies Appropriation Act, 1980 (Public Law 96-126) and previous Interior Department Appropriations Acts $165,000,000 shall not become available for obligation until October 1, 1980, of which $75,000,000 is available for payments to the States; $18,200,000 is available to the Forest Service; $13,775,000 is available to the United States Fish and Wildlife Service; $52,025,000 is available to the National Park Service; and $6,000,000 is available for land acquisition at Pinelands National Reserve: *Provided,* That $2,250,000 of the

amount set aside for contingencies shall not become available for obligation until October 1, 1980.

HISTORIC PRESERVATION FUND

(DEFERRAL)

Of the funds appropriated under this head in the Interior and Related Agencies Appropriation Act, 1980 (Public Law 96-126), $10,000,000 shall not become available for obligation until October 1, 1980. 93 Stat. 958.

UNITED STATES FISH AND WILDLIFE SERVICE

RESOURCE MANAGEMENT

For an additional amount for "Resource management", $350,000.

NATIONAL WILDLIFE REFUGE FUND

For expenses necessary to carry out the provisions of Public Law 95-469 (16 U.S.C. 715s), $1,950,000.

NATIONAL PARK SERVICE

OPERATION OF THE NATIONAL PARK SYSTEM

For an additional amount for "Operation of the National Park System", $1,373,000: *Provided*, That appropriations for maintenance and improvement of roads within the boundary of Indiana Dunes National Lakeshore, made under this head in Public Law 96-126, shall be available for such purposes without regard to whether title to such road rights-of-way is in the United States. 93 Stat. 959.

CONSTRUCTION

(RESCISSION)

Appropriations provided under this head are rescinded in the amount of $3,000,000.

GEOLOGICAL SURVEY

SURVEYS, INVESTIGATIONS, AND RESEARCH

For an additional amount for "Surveys, investigations, and research", $8,600,000.

BUREAU OF INDIAN AFFAIRS

OPERATION OF INDIAN PROGRAMS

For an additional amount for "Operation of Indian programs", $7,000,000.

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TERRITORIAL AFFAIRS

OFFICE OF TERRITORIAL AFFAIRS

ADMINISTRATION OF TERRITORIES

For an additional amount for "Administration of Territories", $3,318,000, to remain available until expended.

TRUST TERRITORY OF THE PACIFIC ISLANDS

For an additional amount for "Trust Territory of the Pacific Islands", $6,117,000, to remain available until expended.

RELATED AGENCIES

DEPARTMENT OF AGRICULTURE

FOREST SERVICE

FOREST MANAGEMENT, PROTECTION AND UTILIZATION

For an additional amount for "Forest Management, Protection and Utilization", $113,000,000.

DEPARTMENT OF ENERGY

ALTERNATIVE FUELS PRODUCTION

42 USC 5915 note.
93 Stat. 970.

From the appropriation of $19,000,000,000, made to the "Energy Security Reserve" under this head in Public Law 96-126, an additional amount of $3,310,000,000 shall be immediately available to the Secretary of Energy for obligation to stimulate domestic commercial production of alternative fuels, of which (1) $3,000,000,000 shall be available until expended for (a) the purchase or production of alternative fuels by way of purchase commitments or price guarantees, and (b) a reserve to cover any defaults from loan guarantees issued to finance the construction of alternative fuels production facilities according to the provisions of the Defense Production Act of 1950, as amended (50 U.S.C. 2061 et seq.) and (2) $310,000,000 shall be available until expended to support preliminary alternative fuels commercialization activities, to be apportioned as follows:

50 USC app. 2061.

(a) not to exceed $100,000,000 shall be available for project development feasibility studies, such individual awards not to exceed $10,000,000: *Provided*, That the Secretary may require repayment of such funds where studies determine such project proposals have economic or technical feasibility;

(b) not to exceed $200,000,000 shall be available for cooperative agreements with non-Federal entities, such individual agreements not to exceed $25,000,000, to support commercial scale development of alternative fuels facilities: *Provided*, That the Secretary may require repayment of such funds when such facilities achieve commercial scale alternative fuels production; and

(c) not to exceed $10,000,000 shall be available for program management.

For the purposes of carrying out the activities provided herein and activities provided under this head in Public Law 96-126 the provisions of 5 U.S.C. 553 and 42 U.S.C. 7191 shall not apply.

None of the funds provided under this head in this Act and in Public Law 96-126 for purchase, price guarantees, or loan guarantees shall be available for biomass energy projects as defined by section 203(2)(A) of S. 932, 96th Congress, except that of the $1,500,000,000 made available to the Department by Public Law 96-126 for purchase commitments or price guarantees, not to exceed $150,000,000 may be available only for such purposes to the extent authorized under title II, subtitle B, of the Energy Security Act (S. 932). 93 Stat. 970. *Ante*, p. 683. *Ante*, p. 696.

All provisions of Public Law 96-126 with regard to "Alternative fuels production" not expressly modified in this appropriation remain in effect and are applicable to activities provided for in this appropriation.

Upon the establishment of a "United States Synthetic Fuels Corporation" (the Corporation) projects or actions initiated by the Department of Energy with appropriations under this head shall transfer to the Corporation upon a Presidential determination that the Corporation is fully operational and upon a majority vote of the Board of Directors of the Corporation, except that funds obligated for feasibility studies, cooperative agreements, program management, and projects which do not meet the definitions of eligibility for funding as synthetic fuels projects in the Corporation shall remain with the Department of Energy: *Provided*, That (1) projects meeting the eligibility criteria for funding by the Corporation for which funding has been obligated or committed by the Department of Energy may be adopted by the Corporation as if they had been entered into by the Corporation (for the purposes of such transfers only, the Corporation shall adopt the terms of such projects, established by the Department of Energy, using the authorities of the Department of Energy regardless of whether the Corporation would otherwise have authority to do so); and (2) accepted proposals for loan guarantees, price supports, and/or purchase commitments for which financial assistance is not provided by the Department of Energy shall be considered as responses to a solicitation of the Corporation to the extent they meet the eligibility criteria for funding by the Corporation. United States Synthetic Fuels Corporation.

Unexpended balances of funds obligated for projects shall transfer to the Corporation to the extent such projects and activities are transferred to the Corporation as provided herein.

DEPARTMENT OF THE TREASURY

ENERGY SECURITY RESERVE

To carry out the provisions of title I of the Energy Security Act (S. 932, 96th Congress) and for other purposes authorized by title II of S. 932, not to exceed $18,792,000,000, to remain available until expended, of which (1) $13,482,000,000 shall be derived from amounts in the Energy Security Reserve established pursuant to the Department of the Interior and Related Agencies Appropriations Act, 1980 (Public Law 96-126), and (2) not to exceed $5,310,000,000 shall be derived by transfer of the balance of the amounts not committed or not conditionally committed which are appropriated by this Act and by Public Law 96-126 from the Energy Security Reserve to the Department of Energy, such transfer to occur on June 30, 1981, to permit the Department to pursue an aggressive interim program of loan and price guarantees and purchase commitments. 42 USC 5915 note. *Ante*, p. 611. *Ante*, p. 683. 93 Stat. 954.

93 Stat. 954.
Ante, p. 611.
Ante, p. 683.
Ante, p. 686.
Ante, p. 687.
Ante, p. 696.

The total available funding (including funds committed or conditionally committed under authority of Public Law 96-126) shall be apportioned so as to provide $17,522,000,000 for purposes of title I, of which $6,000,000,000 shall be immediately available, $6,212,000,000 shall be available for obligation after June 30, 1982, and up to $5,310,000,000 shall be derived by transfer as provided above; and to provide $1,270,000,000 for purposes of title II, to be immediately available and to be apportioned as follows:

(i) not to exceed $525,000,000 to the Secretary of Agriculture for the purposes of subtitle A;

(ii) not to exceed $525,000,000 to the Secretary of Energy for the purpose of subtitle A: *Provided*, That no funds shall be available to the Secretary of Energy for projects as defined by section 212(a)(1)(A) of S. 932; and

(iii) not to exceed $220,000,000 to the Secretary of Energy for purposes of subtitle B.

DEPARTMENT OF ENERGY

FOSSIL ENERGY RESEARCH AND DEVELOPMENT

For an additional amount for "Fossil energy research and development", $4,000,000, to remain available until expended.

(RESCISSION)

93 Stat. 972.

Appropriations provided under this head in the Department of Interior and Related Agencies Appropriation Act, 1980 (Public Law 96-126) are rescinded in the amount of $17,600,000.

ENERGY CONSERVATION

For an additional amount for "Energy Conservation", $2,600,000, to remain available until expended.

(RESCISSION)

Appropriations provided under this head in the Department of Interior and Related Agencies Appropriation Act, 1980 (Public Law 96-126) are rescinded in the amount of $10,000,000.

(DEFERRAL)

Of the funds appropriated under this head in the Department of the Interior and Related Agencies Appropriations Act, 1980 (Public Law 96-126), $1,000,000 shall not become available for obligation until October 1, 1980.

ECONOMIC REGULATORY ADMINISTRATION

(RESCISSION)

Appropriations provided under this head in the Department of Interior and Related Agencies Appropriation Act, 1980 (Public Law 96-126) are rescinded in the amount of $1,000,000.

STRATEGIC PETROLEUM RESERVE

(RESCISSION)

Of the funds appropriated under this head in Public Law 95-465 and other Acts making appropriations for the Department of Interior and Related Agencies, $2,000,000,000 are rescinded. 92 Stat. 1295.

ENERGY INFORMATION ADMINISTRATION

For an additional amount for "Energy Information Administration", $3,500,000.

PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION

PUBLIC DEVELOPMENT

For an additional amount for "Public Development", $500,000, to remain available until expended.

FEDERAL INSPECTOR FOR THE ALASKA GAS PIPELINE

PERMITTING AND ENFORCEMENT

Of the funds appropriated under this head in the Department of the Interior and Related Agencies Appropriations Act, 1980 (Public Law 96-126), $2,700,000 are rescinded. 93 Stat. 978.

CHAPTER IX

DEPARTMENT OF LABOR

EMPLOYMENT AND TRAINING ADMINISTRATION

ADVANCES TO THE UNEMPLOYMENT TRUST FUND AND OTHER FUNDS

For an additional amount for "Advances to the unemployment trust fund and other funds", $1,841,000,000, to remain available until September 30, 1981 and for "Federal unemployment benefits and allowances", such amounts as may be necessary to be charged to the subsequent appropriation for payments for any period subsequent to August 1 of the current year: *Provided*, That of this amount, $400,000,000 shall become available on October 1, 1980.

GRANTS TO STATES FOR UNEMPLOYMENT INSURANCE AND EMPLOYMENT SERVICES

For an additional amount for "Grants to States for unemployment insurance and employment services", from the Employment Security Administration Account in the Unemployment Trust Fund, $147,610,000 to remain available until September 30, 1981, which shall be available for necessary administrative expenses for carrying out section 43 of the Airline Deregulation Act of 1978, and to the extent necessary to meet increased costs of administration resulting from changes in a State law or increases in the number of unemployment insurance claims filed and claims paid or increased salary costs resulting from changes in State salary compensation plans embracing employees of the State generally over those upon which the 49 USC 1552.

State's basic grant was based, which cannot be provided for by normal budgetary adjustments.

EMPLOYMENT STANDARDS ADMINISTRATION

BLACK LUNG DISABILITY TRUST FUND

For an additional amount for payments from the "Black Lung Disability Trust Fund", $392,347,000, to remain available until September 30, 1981.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

HEALTH SERVICES ADMINISTRATION

HEALTH SERVICES

Aliens in Florida.

For an additional amount for the National Health Service Corps, $2,400,000.

For an additional amount for "Health services", $36,000,000, for the medical examination and care of aliens who have recently arrived in south Florida, to remain available through September 30, 1981. The amounts appropriated may be used to reimburse other Department of Health and Human Services accounts for related expenses, including administrative and support costs.

(RESCISSION)

93 Stat. 923.

Of the funds provided for "Health services" for fiscal year 1980 in Public Law 96-123, making further continuing appropriations for the fiscal year 1980, $18,500,000 are rescinded.

CENTER FOR DISEASE CONTROL

PREVENTIVE HEALTH SERVICES

For an additional amount for Epidemic Services, $600,000.

(RESCISSION)

90 Stat. 363.

Of the funds appropriated under this head in Public Law 94-266, making supplemental appropriations for fiscal year 1976, $18,318,000 are rescinded.

ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH ADMINISTRATION

ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH

(RESCISSION)

93 Stat. 923.

Of the funds provided for "Alcohol, drug abuse, and mental health" for fiscal year 1980 in Public Law 96-123, making further continuing appropriations for the fiscal year 1980, $4,000,000 are rescinded.

HEALTH RESOURCES ADMINISTRATION

HEALTH RESOURCES

(RESCISSION)

Of the funds provided for "Health resources" for fiscal year 1980 in Public Law 96-123, making further continuing appropriations for the fiscal year 1980, $19,300,000 are rescinded. 93 Stat. 923.

ASSISTANT SECRETARY FOR HEALTH

SALARIES AND EXPENSES

(RESCISSION)

Of the funds provided for "Salaries and expenses" for fiscal year 1980 in Public Law 96-123, making further continuing appropriations for the fiscal year 1980, $18,500,000 are rescinded.

HEALTH CARE FINANCING ADMINISTRATION

GRANTS TO STATES FOR MEDICAID

For an additional amount for "Grants to States for Medicaid", $2,159,000,000, to remain available until expended. Notwithstanding any other provision of law, no payment shall be made from this appropriation to reimburse State or local expenditures made prior to October 1, 1977 unless a request for reimbursement had been officially transmitted to the Federal government by the State within two years after the fiscal year in which the expenditure occurred. The provisions of Section 109 of Public Law 96-123 shall continue to apply to appropriations previously made for fiscal year 1980 under this heading and to appropriations contained in this paragraph. 93 Stat. 926.

(RESCISSION)

Of the funds provided for "Grants to States for Medicaid" for fiscal year 1980 in Public Law 96-123, Making Further Continuing Appropriations for fiscal year 1980, $30,000,000 are rescinded. 93 Stat. 923.

SOCIAL SECURITY ADMINISTRATION

ASSISTANCE PAYMENTS PROGRAM

For an additional amount for "Assistance payments program", $74,000,000.

ASSISTANT SECRETARY FOR HUMAN DEVELOPMENT SERVICES

GRANTS TO STATES FOR SOCIAL AND CHILD WELFARE SERVICES

For an additional amount for "Grants to States for social and child welfare services", $242,000,000.

For a further additional amount for "Grants to States for Social and Child Welfare Services", $225,750,000: *Provided*, That of this amount, $9,650,000 for activities authorized under title IV-B of the Social Security Act shall remain available until September 30, 1981: 42 USC 620.

Provided further, That notwithstanding any other provision of law, not to exceed $75,000,000 shall be used for training activities under this heading for fiscal year 1980.

DEPARTMENTAL MANAGEMENT

REFUGEE ASSISTANCE

Ante, p. 102.

For expenses necessary to carry out the provisions of the Refugee Act of 1980, $516,900,000, including $23,168,000 for educational assistance for children which shall remain available through March 31, 1981.

DEPARTMENT OF EDUCATION

ELEMENTARY AND SECONDARY EDUCATION

(RESCISSION)

93 Stat. 923.

Of the funds appropriated under this head in Public Law 96-123 for fiscal year 1980, $15,000,000 appropriated for the purpose of title I, part A, section 116; $100,000,000 of the amount appropriated for title I, part A, section 117, and $14,750,000 of the amount appropriated for the purposes of part B of the Headstart-Follow Through Act are rescinded.

42 USC 2929.

92 Stat. 1603.

Of the funds appropriated under this head in Public Law 95-482 for fiscal year 1979, $1,000,000 appropriated for the purposes of the Communications Act of 1934, as amended, are rescinded.

47 USC 609.

SCHOOL ASSISTANCE IN FEDERALLY AFFECTED AREAS

(SUPPLEMENTAL)

For an additional amount for "School Assistance in Federally Affected Areas," to carry out section 7 of the Act of September 30, 1950, $20,000,000, to remain available until September 30, 1981. In addition, in accordance with section 7(c) of that Act, any funds appropriated under that Act and remaining available after payments in accordance with Public Law 96-123 under the heading "School Assistance in Federally Affected Areas" for fiscal year 1980 under sections 2 and 3 of that Act shall be available for payments under section 7.

20 USC 241-1.

93 Stat. 923.

20 USC 237, 238.

EMERGENCY SCHOOL AID

(RESCISSION)

93 Stat. 923.

Of the funds appropriated under this head in Public Law 96-123, making appropriations for Emergency School Aid for fiscal year 1980, $21,052,000 are rescinded.

LIBRARY RESOURCES

(RESCISSION)

Of the funds provided for "Library resources" for fiscal year 1980 in Public Law 96-123, $18,000,000 appropriated for the purpose of title

IV, part D of the Elementary and Secondary Education Act are rescinded.

OCCUPATIONAL, VOCATIONAL, AND ADULT EDUCATION

(SUPPLEMENTAL)

For an additional amount for section 318 of the Adult Education Act, $17,600,000 to remain available until September 30, 1981. 20 USC 1211c.

STUDENT ASSISTANCE

(RESCISSION)

Of the funds provided for "Student assistance" for fiscal year 1980 in Public Law 96-123, $140,000,000 appropriated for Basic Opportunity Grants under subpart 1 of Part A of title IV of the Higher Education Act are rescinded: *Provided,* That each Basic Grant award for the 1980-81 award year shall be reduced by $50 below the entitlement amounts, notwithstanding section 411(b)(3)(B)(i) of title IV of the Higher Education Act. 93 Stat. 923. 20 USC 1070a. 20 USC 1070a note. 20 USC 1070a.

STUDENT LOAN INSURANCE FUND

For an additional amount for the "Student Loan Insurance Fund", $649,723,000, to remain available until expended.

HIGHER AND CONTINUING EDUCATION

(RESCISSION)

Of the funds appropriated under this head in Public Law 96-123 for fiscal year 1980, under the Higher Education Act, $1,000,000 appropriated for Title I, part A, and $15,000,000 appropriated for title VII, part E are rescinded: *Provided,* That the funds made available for fiscal year 1980 for architectural barrier removal shall remain available until September 30, 1981. 93 Stat. 923. 20 USC 1001. 20 USC 1132d-11.

SPECIAL PROJECTS AND TRAINING

(RESCISSION)

Of the funds provided for "Special projects and training" for fiscal year 1980 in Public Law 96-123, $5,000,000 appropriated for the purpose of the Career Education Incentive Act (Public Law 95-207) are rescinded. 93 Stat. 923. 20 USC 2601 note.

SCHOOL IMPROVEMENT

(SUPPLEMENTAL)

For an additional amount for title III, part A, section 303 of the Elementary and Secondary Education Act, $7,700,000 to remain available until September 30, 1981. 20 USC 843.

NATIONAL INSTITUTE OF EDUCATION

(RESCISSION)

20 USC 1221e. Of the funds provided for "National Institute of Education", section 405 of the General Education Provisions Act, $3,000,000 are rescinded.

DEPARTMENTAL MANAGEMENT

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses," $605,000.

REHABILITATION SERVICES

29 USC 777a. For an additional amount under section 311 of the Rehabilitation Act of 1973, $1,500,855.

RELATED AGENCIES

ACTION

OPERATING EXPENSES, DOMESTIC PROGRAMS

For an additional amount for "Operating expenses, domestic programs", $4,000,000.

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

SALARIES AND EXPENSES

(RESCISSION)

93 Stat. 923. Of the amount provided for "Federal Mine Safety and Health Review Commission, Salaries and Expenses" for fiscal year 1980 in Public Law 96-123, making further continuing appropriations for fiscal year 1980, $188,000 are rescinded.

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

SALARIES AND EXPENSES

(RESCISSION)

Of the amount provided for "Occupational Safety and Health Review Commission, Salaries and Expenses" for fiscal year 1980 in Public Law 96-123, making further continuing appropriations for fiscal year 1980, $100,000 are rescinded.

RAILROAD RETIREMENT BOARD

MILWAUKEE RAILROAD RESTRUCTURING ADMINISTRATION

45 USC 913. For administrative expenses authorized by Section 14(c) of the Milwaukee Railroad Restructuring Act, $300,000, to remain available until expended.

SOLDIERS' AND AIRMEN'S HOME

OPERATION AND MAINTENANCE

For an additional amount for "Operation and maintenance", $300,000.

CHAPTER X

LEGISLATIVE BRANCH

SENATE

CONTINGENT EXPENSES OF THE SENATE

MISCELLANEOUS ITEMS

Of the funds appropriated under this head in Public Law 96-86, $1,000,000 are rescinded. 93 Stat. 656.

ADMINISTRATIVE PROVISIONS

SEC. 101. Effective October 1, 1979, section 506 of the Supplemental Appropriations Act, 1973 (2 U.S.C. 58), is amended by redesignating subsections (i) through (k) as (j) through (l), respectively, and by inserting after subsection (h) the following new subsection: 86 Stat. 1505. 2 USC 46a-1 note, 58 note.

"(i) Whenever a Senator or an employee in his office has incurred an expense for which reimbursement may be made under this section, the Secretary of the Senate is authorized to make payment to that Senator or employee for the expense incurred, subject to the same terms and conditions as apply to reimbursement of the expense under this section." Reimbursable expenses.

SEC. 102. (a) Section 506(e) of the Supplemental Appropriations Act, 1973 (2 U.S.C. 58(e)) is amended by striking out "in effect under section 5702 of title 5, United States Code, for employees of agencies" in the next to last sentence and inserting in lieu thereof "prescribed by the Committee on Rules and Administration".

(b) The seventh paragraph under the heading "Administrative Provisions" in the appropriation for the Senate in the Legislative Branch Appropriation Act, 1957 (2 U.S.C. 68b) is amended by striking out "in effect under section 5702 of title 5, United States Code, for employees of agencies" each place it appears and inserting in lieu thereof "prescribed by the Committee on Rules and Administration".

SEC. 103. Effective February 1, 1980, section 506(a) of the Supplemental Appropriations Act, 1973 (2 U.S.C. 58(a)), is amended by striking out paragraph (3) and inserting in lieu thereof the following:

"(3) reimbursement to each Senator for costs incurred in the mailing or delivery of matters relating to official business;"

SEC. 104. Effective January 1, 1980, section 506(h)(1) of the Supplemental Appropriations Act, 1973 (2 U.S.C. 58(h)(1)) is amended by striking out "under subsection (a)(9) when such expenses are incurred by or on behalf of a Senator" and inserting in lieu thereof "to an employee in the office of a Senator when traveling on business of a committee of which that Senator is a member".

SEC. 105. Effective October 1, 1979, the allowance for administrative and clerical assistance of each Senator from the State of Louisiana is increased to that allowed Senators from States having a 2 USC 61-1 note.

population of four million but less than five million, the population of said State having exceeded four million inhabitants.

SEC. 106. Any funds appropriated or made available under the heading "SENATE" in any appropriation Act for the fiscal year ending September 30, 1980, and any funds appropriated by section 101(c) of the joint resolution entitled "Joint Resolution making continuing appropriations for the fiscal year 1980, and for other purposes", approved October 12, 1979 (Public Law 96-86), for disbursement by the Secretary of the Senate which for the fiscal year ending September 30, 1979, were appropriated under the heading "SENATE", shall remain available until expended for the same purpose for which appropriated or made available.

93 Stat. 656.

SEC. 107. (a) Section 105(a)(1) of the Legislative Branch Appropriation Act, 1968 (2 U.S.C. 61-1(a)(1)) is amended to read as follows:

"(a)(1) Whenever the rate of compensation of any employee whose compensation is disbursed by the Secretary of the Senate is fixed or adjusted on or after October 1, 1980, such rate as so fixed or adjusted shall be at a single whole dollar per annum gross rate and may not include a fractional part of a dollar."

(b) Section 106(b)(1) of the Legislative Branch Appropriation Act, 1963 (2 U.S.C. 60j(b)(1)) is amended by striking out "two times the multiple contained in section 1(a) of the applicable Order of the President Pro Tempore of the Senate issued under authority of section 4 of the Federal Pay Comparability Act of 1970" and inserting in lieu thereof "$404".

2 USC 60a-1.

(c) Section 109(d)(1) of the Legislative Branch Appropriation Act, 1979 (2 U.S.C. 60j-3(d)(1)) is amended by striking out "next highest multiple contained in section 1(a) of the applicable Order of the President Pro Tempore of the Senate issued under authority of section 4 of the Federal Pay Comparability Act of 1970" and inserting in lieu thereof "next higher dollar".

Effective date.
2 USC 60j note.

(d) The amendments made by this section shall take effect on October 1, 1980.

Senate Recording and Photographic Studios.
2 USC 123b-1.

SEC. 108. (a) The Senate Recording Studio hereafter shall be known as the Senate Recording and Photographic Studios. Subject to subsection (b), all references to the Senate Recording Studio (including the revolving fund) in any law, resolution, or regulation shall be considered as referring to the Senate Recording and Photographic Studios, and any provision of any law, resolution, or regulation which is applicable to the Senate Recording Studio shall be deemed to apply to the Senate Recording and Photographic Studios.

Rules and regulations; fees.

(b)(1) The Sergeant at Arms and Doorkeeper of the Senate shall, subject to the approval of the majority and minority leaders, promulgate rules and regulations, and establish fees, for the provision of photographs and photographic services to be furnished by the Photographic Studio.

Staffing.

(2) Subject to the approval of the majority and minority leaders, the Sergeant at Arms and Doorkeeper of the Senate is authorized to appoint not more than fifteen employees with such titles, and at such annual rates of compensation, as he deems appropriate, to carry out the functions of the Photographic Studio. Payments of compensation (including agency contributions and longevity compensation as authorized) for personnel employed pursuant to the preceding sentence shall be made by the Secretary of the Senate from funds appropriated for "Salaries, Officers and Employees" under the heading "SENATE".

SEC. 109. Effective January 1, 1980, section 3 under the heading "ADMINISTRATIVE PROVISIONS" in the appropriation for the Senate in

the Legislative Branch Appropriation Act, 1975 (2 U.S.C. 59), is amended—

(1) by striking out "not in excess of one year." in subsection (a)(2) and inserting in lieu thereof "not extending beyond the term of office which he is serving on the first day of such lease, except that, in the case of a Senator whose term of office is expiring and who has been elected for another term, such lease may extend until the end of the term for which he has been so elected. Each such lease shall contain a provision permitting its cancellation upon sixty days written notice by the Sergeant at Arms and Doorkeeper of the Senate, in the event of the death or resignation of the Senator."; and

(2) by striking out "shall not at any time exceed the applicable rate per square foot charged Federal agencies" in subsection (c)(1) and inserting in lieu thereof "shall not exceed the highest rate per square foot charged Federal agencies on the first day of the lease of such office".

SEC. 110. Effective on the first day of the first month following the date of enactment of this Act, the Sergeant at Arms and Doorkeeper of the Senate may appoint and fix the compensation of a Shift Supervisor at not to exceed $14,140 per annum and two Shift Supervisors at not to exceed $12,928 per annum each in lieu of three Mail Carriers at not to exceed $10,302 per annum each; a Deputy Director, Service Department, at not to exceed $35,956 per annum; a Supervisor, Typewriter Repair Section, at not to exceed $26,260 per annum in lieu of not to exceed $24,038 per annum; a Receiving Clerk at not to exceed $12,928 per annum in lieu of a Supervisor, Supply Section, at not to exceed $18,382 per annum; a Power Cutter Operator at not to exceed $13,534 per annum; a Senior Folding Machine Operator at not to exceed $15,554 per annum in lieu of a Laborer at not to exceed $11,716 per annum; an Automatic Typewriter Repairman at not to exceed $19,796 per annum in lieu of a Repairman at not to exceed $18,584 per annum; two Laborers at not to exceed $6,060 per annum each in lieu of a Laborer at not to exceed $11,716 per annum; a Manager, Member and Committee Support, at not to exceed $38,784 per annum in lieu of a Senior Applications Analyst at not to exceed $36,360 per annum; a Manager, Text Processing Applications Development, at not to exceed $38,784 per annum in lieu of a Senior Applications Analyst at not to exceed $36,360 per annum; a Junior Operations Clerk at not to exceed $13,332 per annum; a Manager, Office Administration, at not to exceed $31,512 per annum in lieu of an Office Manager at not to exceed $22,624 per annum; a Special Assistant to the Sergeant at Arms and Doorkeeper at not to exceed $38,784 per annum in lieu of a Manager, User Training and Liaison, at not to exceed $38,784 per annum; a Manager, Educational Services, at not to exceed $38,784 per annum in lieu of an Office Systems Supervisor at not to exceed $32,522 per annum; a Manager, Micrographics Systems, at not to exceed $36,360 per annum in lieu of a Micrographics Supervisor at not to exceed $27,270 per annum; a Computer Output Microfilm Operator at not to exceed $14,948 per annum; a Camera Operator at not to exceed $14,544 per annum; a Senior Network Technician at not to exceed $29,896 per annum; a Network Technician at not to exceed $26,260 per annum; a Quality Control Specialist at not to exceed $15,352 per annum; a Communications Software Specialist at not to exceed $35,148 per annum; and an Office Manager at not to exceed $17,776 per annum: *Provided*, That, effective on the first day of the first month following the date of

enactment of this Act, the position of Mail Supervisor at not to exceed $15,756 per annum, the position of Audio Engineer at not to exceed $16,968 per annum, and two positions of Teletype Operator at not to exceed $14,140 per annum each, are hereby abolished: *Provided further,* That the Sergeant at Arms and Doorkeeper is authorized to undertake minor reorganizations and make associated position, title, and compensation changes with respect to not more than ten positions, if and to the extent that such reorganizations do not result in any additional number of positions funded from amounts appropriated for the "Office of Sergeant at Arms and Doorkeeper,": *Provided further,* That not to exceed $45,000 of the amount appropriated for the Office of Sergeant at Arms and Doorkeeper may be used to employ special deputies.

Inaugural ceremonies.

SEC. 111. There shall be available for construction of platform and seating stands, for refurbishing the Capitol Building, and for salaries and expenses of conducting the inaugural ceremonies of the President and Vice President of the United States, January 20, 1981, in accordance with such program as may be adopted by the joint committee authorized by concurrent resolution of the Senate and House of Representatives, $463,000, to be paid from the contingent fund of the Senate from funds appropriated or otherwise made available under the heading "Miscellaneous Items", and to remain available through September 30, 1981. Such moneys as may be received by donation or otherwise for use in the preparations for such inaugural ceremonies shall be deposited in the Treasury, shall be credited to the appropriation for "Miscellaneous Items", and shall be available for expenditure in like manner and for the same purposes as funds which are appropriated under the preceding sentence.

SEC. 112. (a) The unexpended balance on February 28, 1981, of the funds appropriated under the heading "Committee Employees" in the appropriations for the Senate in any appropriation Act for any fiscal year shall be transferred to and merged with the funds appropriated under the heading "Inquiries and Investigations" in the contingent fund of the Senate.

(b) Effective as of the close of February 28, 1981—

(1) paragraphs (1) and (2) of section 105(e) of the Legislative Branch Appropriation Act, 1968 (2 U.S.C. 61-1(e)), are repealed, and paragraph (2) of section 105(d) of such Act is amended by striking out "subsection (e)(1)" in the second sentence and inserting in lieu thereof "that portion of subsection (e)(3) preceding subparagraph (A)";

(2) the first proviso under the heading "Committee Employees" in the appropriations for the Senate in the Legislative Branch Appropriation Act, 1974 (87 Stat. 529), is repealed; and

(3) clause (2) of the last paragraph under the heading "Contingent Expenses of the Senate" appearing under the heading "SENATE" in chapter XI of the Third Supplemental Appropriation Act, 1957 (2 U.S.C. 46a-1), is amended by striking out "committees and officers of the Senate" and inserting in lieu thereof "officers of the Senate and the Conference of the Majority and the Conference of the Minority of the Senate".

HOUSE OF REPRESENTATIVES

PAYMENTS TO WIDOWS AND HEIRS OF DECEASED MEMBERS OF CONGRESS

For payment to Frances Reid Slack, widow of John M. Slack, late a Representative from the State of West Virginia, $60,663.

CONTINGENT EXPENSES OF THE HOUSE

ALLOWANCES AND EXPENSES

(RESCISSION)

Of the funds appropriated under this head in Public Law 96-86, $1,000,000 are rescinded. 93 Stat. 656.

ARCHITECT OF THE CAPITOL

CAPITOL BUILDINGS AND GROUNDS

CAPITOL GROUNDS

(RESCISSION)

Of the funds appropriated under this head in Public Law 96-86, made available until expended, $1,792,000 are rescinded.

GOVERNMENT PRINTING OFFICE

CONGRESSIONAL PRINTING AND BINDING

For an additional amount for "Congressional printing and binding," $4,578,000, fiscal year 1980: *Provided,* That this appropriation shall not be available for printing and binding part 2 of the Annual Report of the Secretary of Agriculture (known as the Yearbook of Agriculture): *Provided further,* That this appropriation shall be available for the payment of obligations incurred under the appropriations for similar purposes for preceding fiscal years.

PRINTING AND BINDING

For an additional amount for "Printing and binding," $5,295,000, fiscal year 1980: *Provided,* That this appropriation shall not be available for printing and binding part 2 of the Annual Report of the Secretary of Agriculture (known as the Yearbook of Agriculture): *Provided further,* That this appropriation shall be available for the payment of obligations incurred under the appropriations for similar purposes for preceding fiscal years.

LIBRARY OF CONGRESS

SALARIES AND EXPENSES

(RESCISSION)

Of the funds appropriated under this head in Public Law 96-86, $500,000 are rescinded.

ADMINISTRATIVE PROVISIONS

(INCLUDING TRANSFERS OF FUNDS)

93 Stat. 656.

Of the amounts appropriated in Public Law 96-86 for the United States House of Representatives for "Committee employees", such amounts as are deemed necessary for the payment of salaries under this head may be transferred among "Special and select committees" and "Allowances and expenses", upon the approval of the Committee on Appropriations of the House of Representatives.

Of the amounts appropriated in Public Law 96-86 for the United States House of Representatives for "Allowances and expenses", such amounts as are deemed necessary for the payment of salaries and expenses under this head may be transferred among "Special and select committees" and "Committee employees", upon the approval of the Committee on Appropriations of the House of Representatives.

Of the amounts appropriated in Public Law 96-86 for the United States House of Representatives for "Special and select committees", such amounts as are deemed necessary for the payment of salaries and expenses under this head may be transferred among "Committee employees" and "Allowances and expenses", upon the approval of the Committee on Appropriations of the House of Representatives.

Not to exceed $750,000 of the unobligated balance of that part of the appropriation "Salaries and expenses, Library of Congress" for the fiscal year 1980, for moving costs to the James Madison Memorial Building, is hereby continued available until September 30, 1981.

CHAPTER XI

MILITARY CONSTRUCTION

MILITARY CONSTRUCTION, ARMY

(TRANSFER OF FUNDS)

For an additional amount for "Military construction, Army, 1980/1984", $1,000,000, which shall be derived by transfer from funds provided for NATO infrastructure, "Military construction, Defense Agencies, 1980/1984", to remain available until September 30, 1984: *Provided,* That the limitation on the amount available for study, planning, design, architect and engineer services is increased by $1,000,000.

MILITARY CONSTRUCTION, NAVY

(TRANSFER OF FUNDS)

For an additional amount for "Military construction, Navy, 1980/1984", $21,500,000, of which $12,000,000 shall be derived by transfer from funds appropriated for the Culebra Weapons Range by Public Law 93-194 (87 Stat. 766), to remain available until September 30, 1984: *Provided,* That the limitation on the amount available for study, planning, design, architect and engineer services is increased by $14,000,000.

MILITARY CONSTRUCTION, AIR FORCE

(TRANSFER OF FUNDS)

For an additional amount for "Military construction, Air Force, 1980/1984", $7,000,000, of which $4,000,000 shall be derived by transfer from funds provided for NATO infrastructure, "Military construction, Defense Agencies, 1980/1984"; and $3,000,000 from funds appropriated for the high energy laser research facility at White Sands, New Mexico, to remain available until September 30, 1984: *Provided*, That the limitation on the amount available for study, planning, design, architect and engineer services is increased by $7,000,000.

FAMILY HOUSING, DEFENSE

(TRANSFER OF FUNDS)

For an additional amount for "Family housing, Defense", $14,000,000, which shall be derived by transfer from "Aircraft procurement, Air Force, 1978/1980". The limitation for Department of Defense, operation, maintenance, is increased by $14,000,000.

ADMINISTRATIVE PROVISIONS

None of the funds available to the Department of Defense for military construction during the current fiscal year may be obligated for projects under the authority of section 402 of the Military Construction Authorization Act, 1980 or similar provisions in prior-year military construction authorization acts until twenty-one days have passed after the Secretary of Defense has notified the Committees on Appropriations of the Senate and the House of Representatives of the purpose, the estimated cost of construction for which these funds are to be used under such authorities, and the justification for invoking the section 402 or similar authority. 93 Stat. 939.

Funds appropriated for "Military construction, Defense Agencies", in the Military Construction Appropriation Act, 1980, shall remain available until September 30, 1984.

CHAPTER XII

DEPARTMENT OF STATE

ADMINISTRATION OF FOREIGN AFFAIRS

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $11,534,000.

EMERGENCIES IN THE DIPLOMATIC AND CONSULAR SERVICE

For an additional amount for "Emergencies in the Diplomatic and Consular Service", $4,300,000, of which not to exceed $1,800,000 may be used to liquidate obligations incurred in prior years: *Provided*, That all obligations incurred in anticipation of this appropriation are hereby ratified and confirmed if otherwise in accordance with provisions of law.

79-194 O—81—pt. 1——60 : QL3

PAYMENT TO THE FOREIGN SERVICE RETIREMENT AND DISABILITY FUND

For an additional amount for "Payment to the Foreign Service retirement and disability fund", $4,177,000.

INTERNATIONAL ORGANIZATIONS AND CONFERENCES

CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS

For an additional amount for "Contributions to international organizations", $7,600,000.

MISSIONS TO INTERNATIONAL ORGANIZATIONS

For an additional amount for "Missions to international organizations", $418,000.

DEPARTMENT OF JUSTICE

LEGAL ACTIVITIES

SALARIES AND EXPENSES, GENERAL LEGAL ACTIVITIES

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Salaries and expenses, general legal activities", $825,000, of which $745,000 shall be derived by transfer from Office of Justice Assistance, Research, and Statistics, "Law enforcement assistance".

SALARIES AND EXPENSES, ANTITRUST DIVISION

(TRANSFER OF FUNDS)

For an additional amount for "Salaries and expenses, Antitrust Division", $4,233,000 of which $233,000 shall be derived by transfer from Office of Justice Assistance, Research, and Statistics, "Law enforcement assistance".

SALARIES AND EXPENSES, UNITED STATES ATTORNEYS AND MARSHALS

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Salaries and expenses, United States Attorneys and Marshals", $16,680,000 of which $2,008,000 shall be derived by transfer from Office of Justice Assistance, Research, and Statistics, "Law enforcement assistance".

FEES AND EXPENSES OF WITNESSES

(TRANSFER OF FUNDS)

For an additional amount for "Fees and expenses of witnesses", $846,000 to be derived by transfer from Office of Justice Assistance, Research, and Statistics, "Law enforcement assistance".

FEDERAL BUREAU OF INVESTIGATION

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Salaries and expenses", $8,336,000, of which $7,648,000 shall be derived by transfer from the appropriation under the heading Office of Justice Assistance, Research, and Statistics, "Law enforcement assistance".

IMMIGRATION AND NATURALIZATION SERVICE

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Salaries and expenses", $15,000,000, of which $3,000,000 shall be derived by transfer from the appropriation under the heading Office of Justice Assistance, Research, and Statistics, "Law enforcement assistance". The number of vehicles which may be purchased for police-type use is increased to four hundred sixty-one, of which three hundred fifty-eight shall be for replacement only.

DRUG ENFORCEMENT ADMINISTRATION

SALARIES AND EXPENSES

(TRANSFER OF FUNDS)

For an additional amount for "Salaries and expenses", $2,362,000, to be derived by transfer from the appropriation under the heading Office of Justice Assistance, Research, and Statistics, "Law enforcement assistance".

OFFICE OF JUSTICE ASSISTANCE, RESEARCH, AND STATISTICS

LAW ENFORCEMENT ASSISTANCE

(TRANSFER OF FUNDS)

For an additional amount for "Law enforcement assistance", $7,000,000, to be derived by transfer from Federal Prison System, "Salaries and expenses": *Provided*, That such sum shall be available only for the Technical Assistance Program in order to fund additional security necessary for the National Political Conventions.

(RESCISSION)

Of the funds appropriated under this head in Public Law 96-68, making appropriations for the Department of Justice for fiscal year 1980, and other appropriations Acts in previous years, $4,439,446 are rescinded. 93 Stat. 422.

GENERAL PROVISION—DEPARTMENT OF JUSTICE

SEC. 203. Sums appropriated by this Act for the Department of Justice may be used for expenses for travel and transportation of persons, and for transportation of things, as may be necessary for the investigation and prosecution of cases, the apprehension and retention of prisoners, and deportation activities, without regard to any restriction or limitation on the availability of sums for such expenses, unless legislation containing such a restriction or limitation is enacted after the date of enactment of this Act which specifically refers to this section.

DEPARTMENT OF COMMERCE

GENERAL ADMINISTRATION

SALARIES AND EXPENSES

U.S. Olympic Committee. 19 USC 2171 note. 36 USC 371 note. 92 Stat. 1603.

For expenses necessary to carry out the provisions of Reorganization Plan No. 3 of 1979, $200,000. For expenses necessary to carry out the provisions of Public Law 95-606 and Public Law 95-482, $4,000,000, to be available immediately for grants to the United States Olympic Committee and $6,000,000 to become available upon a determination by the Secretary of Commerce that the United States Olympic Committee has collected $8,000,000 from non-Federal sources after May 15, 1980, and to remain available until expended: *Provided*, That any grant from the $6,000,000 provided above which is made to the Committee after the Secretary's determination shall not exceed one-half of additional funds collected from non-Federal sources. For the purpose of determining the amount of funds collected from non-Federal sources with respect to any grant pursuant to this appropriation, the Secretary may consider pledges of funds to be collected if pledged in accordance with procedures established by the Secretary. No portion of the funds appropriated hereunder shall be used (except as determined by the Secretary to be in the national interest) for the financing of programs conducted by, and none of the national governing body authority specified in section 203 of Public Law 95-606 as hereby amended shall be exercised by, a national governing body member of the Committee for a particular sport, when another amateur sports organization has been declared (pursuant to binding arbitration proceedings prescribed by the organic documents of the Committee) entitled to replace such national governing body as the member of the Committee for that sport.

36 USC 393.

PARTICIPATION IN UNITED STATES EXPOSITIONS

For necessary expenses for designing, constructing, and operating a Federal Pavilion in the Knoxville International Energy Exposition, $20,800,000, to remain available through September 30, 1984, including not to exceed $12,000 for entertainment of officials of other countries when specifically authorized by the Commissioner General during the period ending November 15, 1982: *Provided*, That no additional Federal funds shall be made available for this purpose.

ECONOMIC DEVELOPMENT ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of administering the economic development assistance programs as provided for by law, $40,000,000: *Provided,* That not to exceed $300,000 may be advanced to the Small Business Administration for processing of loan applications: *Provided further,* That these funds may also be used to monitor projects approved pursuant to title I of the Public Works Employment Act of 1976. 42 USC 6701.

ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

For an additional amount for "Economic development assistance programs", $5,000,000, to remain available until September 30, 1981, notwithstanding the provisions of section 105 of Public Law 96-86 and section 105 of Public Law 96-123. 93 Stat. 660. 93 Stat. 926.

INTERNATIONAL TRADE ADMINISTRATION

OPERATIONS AND ADMINISTRATION

For an additional amount for "Operations and administration", $1,200,000, to remain available until expended.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

OPERATIONS, RESEARCH, AND FACILITIES

For an additional amount for "Operations, research, and facilities", $1,500,000, to remain available until expended.

COASTAL ZONE MANAGEMENT

For an additional amount for "Coastal zone management", $5,250,000, to remain available until expended.

FISHERMEN'S GUARANTY FUND

For expenses necessary to carry out the provisions of the Fishermen's Protective Act of 1967, as amended, $930,000, to be derived from the receipts collected pursuant to that Act, to remain available until expended. 22 USC 1971 note.

COASTAL ENERGY IMPACT FUND

(RESCISSION)

Of the funds appropriated under this head in Public Law 95-86, making appropriations for the Department of Commerce for fiscal year 1978, $35,400,000 are rescinded. 93 Stat. 656.

PATENT AND TRADEMARK OFFICE

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $1,000,000.

MARITIME ADMINISTRATION

OPERATING-DIFFERENTIAL SUBSIDIES (LIQUIDATION OF CONTRACT AUTHORITY)

For an additional amount for "Operating-differential subsidies", $44,307,000, to remain available until expended.

OPERATIONS AND TRAINING

For an additional amount for "Operations and training", $1,174,000, to remain available until expended.

THE JUDICIARY

COURTS OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES

PRETRIAL SERVICES AGENCIES

For an additional amount for salaries and expenses of Pretrial Services Agencies established pursuant to title II of the Speedy Trial Act of 1974, including support of services to defendants released pending trial, $900,000, to be derived by a transfer from the appropriation "Space and facilities, the Judiciary".

18 USC 3152.

RELATED AGENCIES

ARMS CONTROL AND DISARMAMENT AGENCY

ARMS CONTROL AND DISARMAMENT ACTIVITIES

(RESCISSION)

Of the funds appropriated under this head in Public Law 96-68, making appropriations for the Departments of State, Justice, and Commerce, the Judiciary, and related agencies for fiscal year 1980, $720,000 are rescinded.

93 Stat. 430.

BOARD FOR INTERNATIONAL BROADCASTING

GRANTS AND EXPENSES

For an additional amount for "Board for International Broadcasting", including grants to RFE/RL, Inc., $5,000,000, to remain available until expended, all of which shall be available for fluctuations in foreign currency exchange rates in accordance with the provisions of section 8 of the Board for International Broadcasting Act of 1973, as amended.

22 USC 2877.

DEPARTMENT OF THE TREASURY

BUREAU OF GOVERNMENT FINANCIAL OPERATIONS

CHRYSLER CORPORATION LOAN GUARANTEE PROGRAM

There are appropriated such sums as may be necessary for payment of principal and interest on loans guaranteed pursuant to the Chrysler Corporation Loan Guarantee Act of 1979 and in default, to be available immediately and to remain available until December 31, 1991. 15 USC 1861 note.

FEDERAL COMMUNICATIONS COMMISSION

SALARIES AND EXPENSES

The limitation on land and structures under this heading in the Departments of State, Justice, and Commerce, the Judiciary, and Related Agencies Appropriation Act, 1980 is increased to $1,125,000; and the limitation on improvement and care of grounds and repair to buildings under this heading in said Act is increased to $100,000. 93 Stat. 431.

FEDERAL TRADE COMMISSION

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $1,000,000.

INTERNATIONAL COMMUNICATION AGENCY

SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses", $6,000,000.

SMALL BUSINESS ADMINISTRATION

DISASTER LOAN FUND

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for the "Disaster Loan Fund", $1,177,000,000: *Provided,* That $1,163,000,000 of such amount shall be available without fiscal year limitation and $14,000,000 of such amount shall be available without fiscal year limitation and may be transferred to "Salaries and expenses".

CHAPTER XIII

DEPARTMENT OF TRANSPORTATION

OFFICE OF THE SECRETARY

TRANSPORTATION PLANNING, RESEARCH AND DEVELOPMENT

For an additional amount for "Transportation Planning, Research and Development," to remain available until expended, $350,000.

COAST GUARD

OPERATING EXPENSES

For an additional amount for "Operating Expenses", $45,100,000.

RETIRED PAY

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Retired Pay", $7,500,000, and, in addition, the Secretary of Transportation, subject to the prior approval of the House and Senate Committees on Appropriations, is authorized to transfer an amount not to exceed $1,500,000 to the U.S. Coast Guard appropriation Retired Pay from any available appropriation to meet additional Retired Pay costs which may be increased in fiscal year 1980.

POLLUTION FUND

For an additional amount for the "Pollution Fund", $20,500,000, to remain available until expended.

FEDERAL AVIATION ADMINISTRATION

OPERATION AND MAINTENANCE, METROPOLITAN WASHINGTON AIRPORTS

For an additional amount for "Operation and Maintenance, Metropolitan Washington Airports," $1,162,000: *Provided,* That there may be credited to this appropriation, funds received from air carriers, concessionaires and non-Federal tenants to cover utility and fuel costs in excess of $5,673,000.

FEDERAL HIGHWAY ADMINISTRATION

HIGHWAY BEAUTIFICATION

The appropriation "Surface Transportation, energy and safety" contained in the Department of Transportation and Related Appropriation Act, 1980, is amended by deleting "section 131(j) of title 23, U.S.C., $8,500,000" and inserting in lieu thereof "section 131 of title 23 U.S.C. and section 104(a)(11) of the Surface Transportation Assistance Act of 1978, to remain available until expended, $8,500,000, of which not to exceed $6,500,000 shall be available for section 131(j)".

93 Stat. 1027.

92 Stat. 2690.

FEDERAL-AID HIGHWAYS

(LIQUIDATION OF CONTRACT AUTHORIZATION) (TRUST FUND)

For an additional amount for Federal-aid highways, $1,400,000,000, or so much as may be available in and derived from the Highway Trust Fund, to remain available until expended: *Provided,* That (a) Notwithstanding any other provision of law, the total of all obligations for Federal-aid highways and highway safety construction programs for fiscal year 1980 shall not exceed $7,800,000,000. This limitation shall not apply to obligations for emergency relief under section 125 of title 23, United States Code.

(b) For fiscal year 1980, immediately upon enactment of this Act, the Secretary of Transportation shall control the obligation of such limitation by distribution of amounts of such limitation not obligated on the date of enactment of this Act in the ratio which sums authorized to be appropriated for Federal-aid highways and highway safety construction which are apportioned or allocated to a State in fiscal year 1980 bears to the total of the sums authorized to be appropriated for Federal-aid highways and highway safety construction which are apportioned or allocated to all the States in such fiscal year; except that no State shall receive a distribution such that the total of amounts so distributed to such State and amounts obligated by such State on or before the date of enactment of this Act would exceed a distribution of such limitation made in the ratio which sums authorized to be appropriated for Federal-aid highways and highway safety construction which are apportioned or allocated to such State in fiscal year 1980 bears to the total of the sums authorized to be appropriated for Federal-aid highways and highway safety construction which are apportioned or allocated to all the States in such fiscal year and the Secretary of Transportation shall not be required to cancel any obligations incurred on or before the date of enactment of this Act.

(c) Notwithstanding subsection (b), the Secretary shall—

(1) provide all States with authority sufficient to prevent lapses of sums authorized to be appropriated for Federal-aid highways and highway safety construction which have been apportioned or allocated to a State, except in those instances in which a State has indicated prior to April 2, 1980, its intention to lapse sums apportioned under subsection 104(b)(5)(A), title 23, United States Code; 23 USC 104.

(2) after August 15, 1980, revise a distribution made under subsection (b) in the event a State will not obligate the amount distributed during fiscal year 1980 and redistribute sufficient amounts to those States able to obligate amounts in addition to those previously distributed during fiscal year 1980; and

(3) not distribute funds for administrative expenses and forest highways under such limitation.

(d) Notwithstanding any other provision of law, obligations authorized for carrying out the provisions of 23 U.S.C. 125 for the fiscal year ending September 30, 1980, are increased to $350,000,000. Such obligational authority is to remain available until September 30, 1982.

(e) The Congress disapproves the proposed deferral D80-61, relating to the Federal Highway Administration, Federal-aid highways, as set forth in the message of April 16, 1980, which was transmitted to the Congress by the President. This disapproval shall be effective upon the enactment into law of this bill.

CARPOOL/VANPOOL SUPPORT PROGRAM

For an additional amount for carrying out section 126(e) of Public Law 95-599, $3,000,000, to be derived from the Highway Trust Fund, and to remain available until expended. Grants and loans. 92 Stat. 2705.

FEDERAL RAILROAD ADMINISTRATION

RAIL LABOR ASSISTANCE

For payment to provide supplemental unemployment insurance, $5,000,000 under section 10; and for new career training assistance, $1,500,000, under section 12, of the Milwaukee Railroad Restructuring Act; together with $61,600,000 to become available for obligation on October 1, 1980, for payment of benefits under section 509 of the Regional Rail Reorganization Act of 1973 as amended: *Provided,* That notwithstanding any other provision of law none of the funds appropriated in this or any previous Act may be made available to Conrail or any of it subsidiaries for any employee protection payments, other than those specified in title VI of H.R. 7235 as reported by the Subcommittee on Transportation and Commerce of the Interstate and Foreign Commerce Committee, which are identical or similar to those previously authorized by title V of the Regional Rail Reorganization Act of 1973 to be paid by Conrail to current Conrail employees and Conrail shall not be liable to make any such employee protection payments other than those specified in title VI of H.R. 7235 as reported by the Subcommittee on Transportation and Commerce of the Interstate and Foreign Commerce Committee: *Provided further,* That this limitation shall not apply to those payments made to employees in accordance with the terms of title VI of H.R. 7235 as reported by the Subcommittee on Transportation and Commerce of the Interstate and Foreign Commerce Committee: *Provided further,* That the effective date of this limitation is the first day of the month following enactment of this bill.

45 USC 909.
45 USC 911.
45 USC 779.
45 USC 771.

GRANTS TO THE NATIONAL RAILROAD PASSENGER CORPORATION

Provided, That notwithstanding any other provision of law the funds appropriated to the National Railroad Passenger Corporation for Capital Improvements shall become available only as they are required to make payments to vendors for capital equipment deliveries and services delivered during the balance of fiscal year 1980.

RAILROAD REHABILITATION AND IMPROVEMENT FINANCING FUNDS

(RESCISSION)

Of the funds authorized to be expended under this head by the Department of Transportation and Related Agencies Appropriation Act, 1980, $60,000,000 are rescinded: *Provided,* That of the funds appropriated under section 505 of the Railroad Revitalization and Regulatory Reform Act of 1976, an additional $15,000,000 may be used for transaction assistance in accordance with section 505(h)(1)(A) and (B), as amended by the Rock Island Railroad Transition and Employee Assistance Act, except that the dollar limitations contained in those subsections shall not apply to the $15,000,000: *Provided further,* That the $15,000,000 shall be available only upon the enactment of authorizing legislation and shall not be expended prior to October 1, 1980.

93 Stat. 1031.
45 USC 825.
Ante, p. 404.

URBAN MASS TRANSPORTATION ADMINISTRATION

URBAN DISCRETIONARY GRANTS

For an additional amount for "Urban discretionary grants", $330,000,000, to remain available until September 30, 1983.

RESEARCH, DEVELOPMENT, AND DEMONSTRATIONS AND UNIVERSITY RESEARCH AND TRAINING

(DISAPPROVAL OF DEFERRAL)

The Congress disapproves the proposed deferral D80-64 relating to the Urban Mass Transportation Administration, Research, Development, and Demonstrations and University Research and Training, as set forth in the message of April 16, 1980, which was transmitted to the Congress by the President. This disapproval shall be effective upon the enactment into law of this bill.

INTERSTATE TRANSFER GRANTS

(DISAPPROVAL OF DEFERRAL)

The Congress disapproves the proposed deferral D80-72 relating to Urban Mass Transportation Administration, Interstate Transfer Grants, as set forth in the message of June 18, 1980, which was transmitted to the Congress by the President. This disapproval shall be effective upon the enactment into law of this bill.

TRANSPORTATION RESEARCH AND DEVELOPMENT

(LIMITATION ON OBLIGATIONS)

None of the funds provided in this Act or any previous Appropriation Act shall be available for the execution of research and development programs the obligations in fiscal year 1980 for which are in excess of 95 per centum of the amounts estimated to be obligated for research and development in fiscal year 1980 as reflected in the January, 1980 budget document for "Coast Guard, research, development, test, and evaluation; Federal Aviation Administration, facilities, engineering and development and research, engineering and development; Federal Highway Administration, Limitation on general operating expenses, highway safety research and development and motor carrier safety; National Highway Traffic Safety Administration, operations and research; Federal Railroad Administration, railroad research and development; Urban Mass Transportation Administration, research, development, and demonstrations and university research and training (including service and methods demonstrations); Research and Special Programs Administration, research and special programs."

RELATED AGENCIES

Civil Aeronautics Board

PAYMENTS TO AIR CARRIERS

For an additional amount for payments to air carriers of so much of the compensation fixed and determined by the Civil Aeronautics Board under section 406 and section 419 of the Federal Aviation Act of 1958, as amended, and the Airline Deregulation Act of 1978, as is payable by the Board, $19,669,000, to remain available until expended.

49 USC 1376, 1389.
49 USC 1301 note.

Department of the Treasury

OFFICE OF THE SECRETARY

INVESTMENT IN FUND ANTICIPATION NOTES

(RESCISSION)

Of the funds appropriated under this head in the Department of Transportation and Related Agencies Appropriation Act, 1980, $60,000,000 are rescinded.

93 Stat. 1035.

United States Railway Association

ADMINISTRATIVE EXPENSES

For an additional amount for "Administrative expenses," $4,100,000, to remain available through September 30, 1981.

CHAPTER XIV

DEPARTMENT OF THE TREASURY

Office of the Secretary

SALARIES AND EXPENSES

(RESCISSION)

Of the funds appropriated under this head in Public Law 96-74, making appropriations for the Treasury Department for fiscal year 1980, $250,000 are rescinded.

93 Stat. 559.

International Affairs

(RESCISSION)

Of the funds appropriated under this head in Public Law 96-74 making appropriations for the Treasury Department for fiscal yea 1980, $250,000 are rescinded.

BUREAU OF GOVERNMENT FINANCIAL OPERATIONS

SALARIES AND EXPENSES

(RESCISSION)

Of the funds appropriated under this head in Public Law 96-74, making appropriations for the Treasury Department for fiscal year 1980, $322,000 are rescinded. 93 Stat. 560.

UNITED STATES CUSTOMS SERVICE

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $650,000 to be used for processing Cuban refugees: *Provided further,* That funds expended for overtime pay to Customs officers resulting from the situation involving aliens attempting to reach the United States from Cuba shall not be counted against the overtime pay limitation included in Public Law 96-74. Notwithstanding any other provision of law, the proceeds of customs duties collected in the Virgin Islands less the cost of collecting all said duties shall, effective for fiscal years beginning after September 30, 1979, be covered into the Treasury of the Virgin Islands, and shall be available for expenditure as the Legislator of the Virgin Islands may provide. 48 USC 1642a.

BUREAU OF THE MINT

SALARIES AND EXPENSES

(RESCISSION)

Of the funds appropriated under this head in Public Law 96-74, making appropriations for the Treasury Department for fiscal year 1980, $800,000 are rescinded.

BUREAU OF THE PUBLIC DEBT

ADMINISTERING THE PUBLIC DEBT

For an additional amount for "Administering the public debt", $22,000,000.

INTERNAL REVENUE SERVICE

PAYMENT WHERE ENERGY CREDIT EXCEEDS LIABILITY FOR TAX

For an additional amount for "Payment where energy credit exceeds liability for tax", $1,000,000.

GENERAL PROVISION

(INCLUDING TRANSFER OF FUNDS)

SEC. 1. Any appropriation made available to the Internal Revenue Service for the current fiscal year by this Act may be transferred to any other Internal Revenue Service appropriation only to the extent necessary for increased pay costs authorized by or pursuant to law:

Provided, however, That no funds may be transferred into or out of the account entitled "Payment where energy credit exceeds liability for tax": *Provided further,* That none of the funds made available pursuant to the provisions of this Act shall be used to formulate or carry out any rule, policy, procedure, guideline, regulation, standard, or measure which would cause the loss of tax-exempt status to private, religious, or church-operated schools under section 501(c)(3) of the Internal Revenue Code of 1954 unless in effect prior to August 22, 1978.

26 USC 501.

UNITED STATES SECRET SERVICE

SALARIES AND EXPENSES

For additional amount for "Salaries and expenses", $9,725,000.

EXECUTIVE OFFICE OF THE PRESIDENT

COUNCIL ON WAGE AND PRICE STABILITY

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $500,000.

INDEPENDENT AGENCIES

COMMISSION ON EXECUTIVE, LEGISLATIVE, AND JUDICIAL SALARIES

SALARIES AND EXPENSES

For necessary expenses of the Commission on Executive, Legislative, and Judicial Salaries, authorized by section 225 of the Postal Revenue and Federal Salary Act of 1967 (81 Stat. 642–645), $160,000, to remain available until expended. This appropriation shall be made available only upon enactment into law of authorizing legislation.

2 USC 351–361.

GENERAL SERVICES ADMINISTRATION

FEDERAL BUILDINGS FUND

LIMITATIONS ON AVAILABILITY OF REVENUE

In addition to the aggregate amount heretofore made available for real property management and related activities in fiscal year 1980, $109,660,000 shall be available for such purposes in the aggregate amount of $1,521,928,000, of which (1) not to exceed $100,589,000 shall remain available until expended for construction as follows:

New construction:

Illinois: Chicago, Social Security Administration Program Center (claim), $600,000;

Louisiana: New Orleans, Customhouse, $914,000;

New York: Queens-Jamaica Federal Office Building, $92,765,000;

Florida: Miami, Courthouse Annex, $6,310,000;

Provided, That the immediately foregoing limits of costs may be exceeded to the extent that savings are effected in such other projects, but by not more than 10 per centum: *Provided further,* That all funds for direct construction projects shall expire on September

30, 1981, except funds for projects as to which funds have been obligated in whole or in part prior to such date; (2) not to exceed $9,071,000, which shall remain available until expended, for alterations and major repairs as follows:

Arizona: Phoenix, Federal building and court house, $630,000;

Illinois: Chicago, Federal office building, $3,220,000;

West Virginia: Huntington, Federal Building and courthouse, $2,305,000;

California: Laguna Niguel, Federal office building, $2,916,000: *Provided*, That funds in the Federal Buildings Fund for Alterations and Major Repairs shall, for prospectus projects, be limited to the amount by project shown in the budget justification therefor, except each project may be increased by an amount not to exceed 10 per centum: *Provided further*, That all funds for Alterations and Major Repair prospectus projects shall expire on September 30, 1981, except funds for projects as to which funds have been obligated in whole or in part prior to such date: *Provided*, That any revenues and collections and any other sums accruing to this fund during fiscal year 1980, excluding reimbursements under section 210(f)(6) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 490(f)(6), in excess of $1,521,928,000 shall remain in the Fund and shall not be available for expenditure except as authorized in Appropriation Acts.

National Archives and Records Service

OPERATING EXPENSES

For an additional amount for "Operating expenses", $750,000.

Refunds Under Renegotiation Act

For necessary expenses to carry out section 201(f) of the Renegotiation Act of 1951, 50 U.S.C. App. 1231(f), for fiscal year 1980, $2,500,000 to remain available until expended.

General Provisions—General Services Administration

(INCLUDING TRANSFERS OF FUNDS)

SEC. 1. Notwithstanding section 322 of the Act of June 30, 1932, as amended (U.S.C. 40 278a), funds made available by this or any other Act to the General Services Administration for the payment of rent shall be available for the purpose of leasing space at fair rental value after August 1, 1978, at 555 West 57th Street, New York City, New York, upon a determination by the Administrator of General Services that execution of a lease is advantageous to the Government in terms of economy and efficiency; and that the total cost to the Government for the expected life of the lease is less than the cost of alternative space. 40 USC 278a.

SEC. 2. Appropriations made available for fiscal year 1980 for General Services Administration activities (excluding the new obligational authority limitation for the Federal Buildings Fund) may be transferred between such appropriations only to the extent necessary for increased pay costs authorized by or pursuant to law, notwithstanding the provision in the appropriation language for Indian Trust Accounting "That none of these funds shall be available for transfer to any other account".

SEC. 3. Funds in the Federal Buildings Fund made available for fiscal year 1980 for Federal Buildings Fund activities may be transferred between such activities only to the extent necessary for increased pay costs authorized by or pursuant to law and to the extent necessary for mandatory program requirements.

OFFICE OF PERSONNEL MANAGEMENT

PAYMENT TO CIVIL SERVICE RETIREMENT AND DISABILITY FUND

For an additional amount for "Payment to Civil Service Retirement and Disability Fund", $376,754,000.

MERIT SYSTEMS PROTECTION BOARD

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $500,000.

OFFICE OF THE SPECIAL COUNSEL

SALARIES AND EXPENSES

(RESCISSION)

93 Stat. 572. Of the funds appropriated under this head in Public Law 96-74, the Treasury, Postal Service, and General Government Appropriations Act, 1980, $2,000,000 are rescinded.

FEDERAL LABOR RELATIONS AUTHORITY

SALARIES AND EXPENSES

The limitation on obligations for travel and transportation of persons under the salaries and expenses fund is increased to $750,000.

UNITED STATES TAX COURT

SALARIES AND EXPENSES

In addition to the amount made available in the appropriation under this head in the Independent Agencies Appropriations Act, 1980, for expenses of travel, $46,000 shall be available in that appropriation for such expenses. 93 Stat. 572.

TITLE II—INCREASED PAY COSTS FOR THE FISCAL YEAR 1980

For additional amounts for appropriation for the fiscal year 1980 for increased pay costs authorized or pursuant to law as follows:

LEGISLATIVE BRANCH

SENATE

"Salaries, officers and employees", $6,700,000;
"Office of the Legislative Counsel of the Senate", $36,000;
"Senate policy committees", $100,000;

"Inquiries and investigations", $1,000,000;
"Folding documents", $8,000;

HOUSE OF REPRESENTATIVES

"Compensation of Members", $1,523,000;
"House leadership offices", $142,800;
"Salaries officers and employees", $1,949,600;
"Committee employees", $1,700,000;
"Committee on Appropriations (studies and investigations)", $136,000;
"Office of the Law Revision Counsel", $28,000;
"Office of the Legislative Counsel", $99,000;
"Members' clerk hire", $8,500,000;
"Allowances and expenses", $1,029,000;
"Special and select committees", $2,055,000;

JOINT ITEMS

"Joint Committee on Taxation", $64,000;
"Capitol Guide Service", $42,000;

OFFICE OF TECHNOLOGY ASSESSMENT

"Salaries and expenses", $199,000;

CONGRESSIONAL BUDGET OFFICE

"Salaries and expenses", $269,000: *Provided*, That none of the funds provided or made available herein shall be available for salaries and expenses of any employee of the Congressional Budget Office in excess of two hundred and eighteen staff employees;

ARCHITECT OF THE CAPITOL

(TRANSFER OF FUNDS)

Office of the Architect of the Capitol: "Salaries", $172,000, to be derived by transfer from the appropriation "House office buildings" by release of that amount withheld from obligation by the Architect of the Capitol pursuant to section 311 of Public Law 95-391; 92 Stat. 790.
"Capitol buildings", $308,000, to be derived by transfer from the appropriation "House office buildings" by release of that amount withheld from obligation by the Architect of the Capitol pursuant to section 311 of Public Law 95-391;
"Capitol grounds", $107,000, to be derived by transfer from the appropriation "House office buildings" by release of that amount withheld from obligation by the Architect of the Capitol pursuant to section 311 of Public Law 95-391;
"Senate office buildings", $450,000;
"Senate garage", $10,000;
"House office buildings", $632,000, to be derived by release of that amount withheld from obligation by the Architect of the Capitol pursuant to section 311 of Public Law 95-391;

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BOTANIC GARDEN

(TRANSFER OF FUNDS)

Botanic Garden: "Salaries and expenses", $70,000, to be derived by transfer from the appropriation "House office buildings" by release of that amount withheld from obligation by the Architect of the Capitol pursuant to section 311 of Public Law 95-391;

92 Stat. 790.

LIBRARY OF CONGRESS

(INCLUDING TRANSFER OF FUNDS)

"Salaries and expenses", $1,182,000, and in addition, $447,000 to be derived by release of that amount withheld from obligation by the Librarian of Congress pursuant to section 311 of Public Law 95-391; and $800,000 to be derived by transfer from the appropriation "Furniture and furnishings" by release of that amount withheld from obligation by the Librarian of Congress pursuant to section 311 of Public Law 95-391;

Copyright Office: "Salaries and expenses", $381,000, provided that an additional amount of $400,000, to be derived from the funds credited to this appropriation during fiscal year 1980 under section 708(c) of title 17, United States Code, shall be available for obligation during such fiscal year;

Congressional Research Service: "Salaries and expenses", $800,000;

Books for the blind and physically handicapped: "Salaries and expenses", $163,000;

GENERAL ACCOUNTING OFFICE

"Salaries and expenses", $4,000,000;

GOVERNMENT PRINTING OFFICE

Office of the Superintendent of Documents, "Salaries and expenses", $219,000;

THE JUDICIARY

(TRANSFERS OF FUNDS)

SUPREME COURT OF THE UNITED STATES

"Salaries and expenses", $113,000, to be derived by transfer from Courts of Appeals, District Courts, and Other Judicial Services, "Space and facilities";

"Care of building and grounds", $25,000, to be derived by transfer from Courts of Appeals, District Courts, and Other Judicial Services, "Space and facilities";

COURT OF CUSTOMS AND PATENT APPEALS

"Salaries and expenses", $91,000, to be derived by transfer from Courts of Appeals, District Courts, and Other Judicial Services, "Bankruptcy Courts, Salaries and Expenses";

CUSTOMS COURT

"Salaries and expenses", $91,000, to be derived by transfer from Courts of Appeals, District Courts, and Other Judicial Services, "Bankruptcy Courts, Salaries and Expenses";

COURT OF CLAIMS

"Salaries and expenses", $239,000, to be derived by transfer from Courts of Appeals, District Courts, and Other Judicial Services, "Bankruptcy Courts, Salaries and Expenses";

COURTS OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES

"Salaries of Judges", $3,600,000, to be derived by transfer from "Space and facilities";
"Salaries of supporting personnel", $8,000,000, to be derived by transfer from "Space and facilities";
"Salaries and expenses of Magistrates", $800,000, to be derived by transfer from "Bankruptcy Courts, Salaries and Expenses";

ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS

"Salaries and expenses", $650,000, to be derived by transfer from Courts of Appeals, District Courts, and Other Judicial Services, "Bankruptcy Courts, Salaries and Expenses";

FEDERAL JUDICIAL CENTER

"Salaries and expenses", $117,000, to be derived by transfer from Courts of Appeals, District Courts, and Other Judicial Services, "Bankruptcy Courts, Salaries and Expenses";

EXECUTIVE OFFICE OF THE PRESIDENT

WHITE HOUSE OFFICE

"Salaries and expenses", $731,000;

EXECUTIVE RESIDENCE AT THE WHITE HOUSE

"Operating expenses", $126,000;

SPECIAL ASSISTANCE TO THE PRESIDENT

"Salaries and expenses", $58,000;

COUNCIL OF ECONOMIC ADVISERS

"Salaries and expenses", $27,000;

COUNCIL ON WAGE AND PRICE STABILITY

"Salaries and expenses", $464,000;

DOMESTIC POLICY STAFF

"Salaries and expenses", $111,000;

NATIONAL SECURITY COUNCIL

"Salaries and expenses", $88,000;

OFFICE OF ADMINISTRATION

"Salaries and expenses", $142,000;

OFFICE OF MANAGEMENT AND BUDGET

"Salaries and expenses", $1,078,000;

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

"Salaries and expenses", $226,000;

FUNDS APPROPRIATED TO THE PRESIDENT

INTERNATIONAL DEVELOPMENT ASSISTANCE

"Operating expenses of the International Development Cooperation Agency," $8,587,000; of which not to exceed $4,594,000 shall be for operating expenses, Agency for International Development-Washington, and $106,000 shall be for operating, administrative expenses, International Development Cooperation Agency;

PEACE CORPS

"Operating expenses", $745,000;

DEPARTMENT OF AGRICULTURE

(INCLUDING TRANSFERS OF FUNDS)

"Office of the Secretary", $200,000;
"Departmental Administration", $800,000;
"Working Capital Fund", for an additional amount for obligations chargeable against the working capital fund, $983,000;
"Office of the Inspector General", $1,000,000 and in addition $477,000 shall be derived by transfer from the appropriation "Food stamp program" and merged with this appropriation;
"Office of the General Counsel", $500,000;

SCIENCE AND EDUCATION ADMINISTRATION

"Agricultural research", $2,750,000;
"Technical information systems", $150,000;
"Economics, Statistics, and Cooperatives Service", $1,875,000;

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

(INCLUDING TRANSFER OF FUNDS)

"Salaries and expenses", $5,000,000: In addition, not to exceed an additional $3,534,000 may be transferred to and merged with this appropriation from the Commodity Credit Corporation fund;

FEDERAL CROP INSURANCE CORPORATION

"Federal Crop Insurance Corporation", $1,012,000 for administrative and operating expenses which may be paid from premium income;

RURAL ELECTRIFICATION ADMINISTRATION

"Salaries and expenses", $600,000;

FARMERS HOME ADMINISTRATION

"Salaries and expenses", $5,500,000;

SOIL CONSERVATION SERVICE

"Conservation operations", $7,200,000;
"Watershed planning", $500,000;
"Animal and Plant Health Inspection Service", $4,000,000;
"Federal Grain Inspection Service", $900,000;

AGRICULTURAL MARKETING SERVICE

"Marketing services", $1,700,000;

FOOD SAFETY AND QUALITY SERVICE

"Food Safety and Quality Service", $12,950,000;
"Funds for strengthening markets, income and supply (section 32)", (increase of $259,000 in the limitation, "marketing agreements and orders");

FOREST SERVICE

"Forest Management, protection and utilization", $23,487,000 of which $325,000 for forest insect and disease activities, $38,000 for cooperative law enforcement, $1,742,000 for maintenance of forest development roads and trails, and $1,731,000 for reforestation and timber stand improvement shall remain available for obligations until September 30, 1981;
"Construction and land acquisition", $5,382,000, to remain available until expended;
"Youth Conservation Corps", $797,000;

DEPARTMENT OF COMMERCE

GENERAL ADMINISTRATION

"Salaries and expenses", $900,000;

BUREAU OF THE CENSUS

"Salaries and expenses", $1,600,000;
"Periodic censuses and programs", $34,400,000, to remain available until expended;

ECONOMIC AND STATISTICAL ANALYSIS

"Salaries and expenses", $550,000;

ECONOMIC DEVELOPMENT ADMINISTRATION

"Salaries and expenses", $900,000;

REGIONAL ACTION PLANNING COMMISSIONS

"Regional development programs", $25,000, to remain available until expended;

INTERNATIONAL TRADE ADMINISTRATION

"Operations and administration", $2,600,000, to remain available until expended;

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

"Operations, research, and facilities", $18,500,000, to remain available until expended;

"Coastal zone management", $200,000, to remain available until expended;

PATENT AND TRADEMARK OFFICE

"Salaries and expenses", $4,331,000;

SCIENCE AND TECHNICAL RESEARCH

"Scientific and technical research and services", $2,700,000, to remain available until expended, of which not to exceed $20,000 may be transferred to the "Working Capital Fund", National Bureau of Standards, for additional capital;

NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION

"Salaries and expenses", $361,000, to remain available until expended;

MARITIME ADMINISTRATION

"Operations and training", $1,133,000, to remain available until expended;

DEPARTMENT OF DEFENSE—MILITARY

MILITARY PERSONNEL

"Military personnel, Army", $597,100,000;
"Military personnel, Navy", $413,837,000;
"Military personnel, Marine Corps", $128,824,000;
"Military personnel, Air Force", $489,398,000;
"Reserve personnel, Army", $35,941,000;
"Reserve personnel, Navy", $17,377,000;
"Reserve personnel, Marine Corps", $4,949,000;
"Reserve personnel, Air Force", $11,853,000;
"National Guard personnel, Army", $52,800,000;
"National Guard personnel, Air Force", $19,760,000;

OPERATION AND MAINTENANCE

"Operation and maintenance, Army", $276,900,000;
"Operation and maintenance, Navy", $302,000,000;
"Operation and maintenance, Marine Corps", $15,700,000;
"Operation and maintenance, Air Force", $210,300,000;
"Operation and maintenance, Defense Agencies", $144,700,000;
"Operation and maintenance, Army Reserve", $12,800,000;
"Operation and maintenance, Navy Reserve", $3,100,000;
"Operation and maintenance, Marine Corps Reserve", $117,000;
"Operation and maintenance, Air Force Reserve", $9,200,000;
"Operation and maintenance, Army National Guard", $25,300,000;
"Operation and maintenance, Air National Guard", $23,700,000;
"National Board for the Promotion of Rifle Practice, Army", $14,000;
"Court of Military Appeals, Defense", $69,000;

DEPARTMENT OF DEFENSE—CIVIL

SOLDIERS' AND AIRMEN'S HOME

"Operation and maintenance", $745,000;

CORPS OF ENGINEERS—CIVIL

"Construction, general", $13,400,000, to remain available until expended;
"Operation and maintenance, general", $23,600,000, to remain available until expended;
"General expenses", $3,600,000;

DEPARTMENT OF EDUCATION

OFFICE OF CIVIL RIGHTS

"Salaries and expenses", $625,000;

DEPARTMENTAL MANAGEMENT

"Salaries and expenses", $5,200,000;

DEPARTMENT OF HEALTH AND HUMAN SERVICES

FOOD AND DRUG ADMINISTRATION

"Salaries and expenses", $8,500,000;

HEALTH SERVICES ADMINISTRATION

"Health services", $7,824,000;
"Indian health services", $8,335,000;

CENTER FOR DISEASE CONTROL

(TRANSFER OF FUNDS)

"Preventive health services", $4,333,000, to be derived from unobligated swine flu funds provided under Public Law 94-266; 90 Stat. 363.

ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH ADMINISTRATION

(TRANSFER OF FUNDS)

"Saint Elizabeth's Hospital", $4,000,000, to be derived by transfer from "Alcohol, Drug Abuse and Mental Health";

ASSISTANT SECRETARY FOR HEALTH

"Salaries and expenses", $1,161,000;

HEALTH CARE FINANCING ADMINISTRATION

(INCLUDING TRANSFER OF FUNDS)

"Program management", $2,000,000, together with $3,000,000 to be derived by transfer from the "Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds";

SOCIAL SECURITY ADMINISTRATION

"Limitation on administrative expenses" (increase of $93,000,000 in the limitation on salaries and expenses paid from the trust funds);

OFFICE OF HUMAN DEVELOPMENT SERVICES

"Human development services", $1,877,000;

DEPARTMENTAL MANAGEMENT

(INCLUDING TRANSFER OF FUNDS)

"General departmental management", $3,785,000, of which $200,000 is to be derived by transfer from "Office for Civil Rights";
"Office of the Inspector General", $1,254,000;
"Office of Consumer Affairs", $43,000;

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

MANAGEMENT AND ADMINISTRATION

(INCLUDING TRANSFER OF FUNDS)

"Salaries and expenses", $14,853,000, of which $11,845,000 shall be derived by transfer from various funds of the Federal Housing Administration;

DEPARTMENT OF THE INTERIOR

BUREAU OF LAND MANAGEMENT

"Management of lands and resources", $5,700,000;

WATER AND POWER RESOURCES SERVICE

"Operation and maintenance", $700,000: *Provided*, That funds in Public Law 96-69 for "Operation and maintenance" derived from the Colorado River Dam fund shall be reduced by $500,000 and funds derived from the Reclamation fund shall be increased by $500,000; 93 Stat. 444.

"General administrative expenses", $1,200,000;

HERITAGE CONSERVATION AND RECREATION SERVICE

"Salaries and expenses", $350,000;
"Land and water conservation fund", of the amount heretofore appropriated under this heading, an additional amount of $297,000 shall be available for administrative expenses of the Heritage Conservation and Recreation Service;

U.S. FISH AND WILDLIFE SERVICE

"Resource management", $5,000,000;

NATIONAL PARK SERVICE

"Operation of the National Park System", $7,000,000;
"John F. Kennedy Center for the Performing Arts", $100,000;

GEOLOGICAL SURVEY

"Surveys, investigations, and research", $10,500,000: *Provided*, That the amount which may be made available for cooperation with States and municipalities for water resources investigations is increased to $40,084,000;

BUREAU OF MINES

"Mines and minerals", $1,750,000;

BUREAU OF INDIAN AFFAIRS

"Operation of Indian programs", $10,500,000;

OFFICE OF TERRITORIAL AFFAIRS

"Administration of territories", $100,000;
"Trust Territory of the Pacific Islands", $100,000;

OFFICE OF THE SOLICITOR

"Salaries and expenses", $500,000;

OFFICE OF THE SECRETARY

"Departmental management", $1,500,000;

DEPARTMENT OF JUSTICE

(INCLUDING TRANSFERS OF FUNDS)

GENERAL ADMINISTRATION

"Salaries and expenses", $950,000, to be derived by transfer from Federal Prison System, "Buildings and facilities";

UNITED STATES PAROLE COMMISSION

"Salaries and expenses", $260,000, to be derived by transfer from Federal Prison System, "Buildings and facilities";

LEGAL ACTIVITIES

"Salaries and expenses, general legal activities", $5,528,000, to be derived by transfer from Federal Prison System, "Buildings and facilities";

"Salaries and expenses, Antitrust Division", $1,704,000, to be derived by transfer from Federal Prison System, "Buildings and facilities";

"Salaries and expenses, United States Attorneys and Marshals", $11,003,000, of which $4,899,000 shall be derived by transfer from Federal Prison System, "Buildings and facilities";

"Salaries and expenses, Community Relations Service", $220,000, to be derived by transfer from Federal Prison System, "Buildings and facilities";

FEDERAL BUREAU OF INVESTIGATION

"Salaries and expenses", $29,498,000;

IMMIGRATION AND NATURALIZATION SERVICE

"Salaries and expenses", $16,416,000, of which $5,389,000 shall be derived by transfer from Federal Prison System, "Buildings and facilities";

DRUG ENFORCEMENT ADMINISTRATION

"Salaries and expenses", $7,881,000, of which $1,077,000 shall be derived by transfer from Federal Prison System, "Buildings and facilities";

FEDERAL PRISON SYSTEM

"Salaries and expenses", $3,300,000, to be derived by transfer from "Buildings and facilities";

DEPARTMENT OF LABOR

EMPLOYMENT AND TRAINING ADMINISTRATION

"Program administration", $3,787,000, together with not to exceed $1,465,000 which may be expended from the Employment Security Administration account in the Unemployment Trust Fund, and of which $330,000 shall be for carrying into effect the provisions of 38 U.S.C. 2001-2003;

LABOR-MANAGEMENT SERVICES ADMINISTRATION

"Salaries and expenses", $2,223,000;

EMPLOYMENT STANDARDS ADMINISTRATION

"Salaries and expenses", $4,882,000, together with not to exceed $11,000 to be derived from the Special Fund in accordance with

sections 39(c) and 44(j) of the Longshoremen's and Harbor Workers' Compensation Act; 33 USC 939, 944.

"Black lung disability trust fund", $599,000 shall be available for transfer to Employment Standards Administration, Salaries and expenses, of which $290,000 shall be derived from amounts made available for transfer to Departmental Management, Salaries and expenses provided under this head in Public Law 96-123; 93 Stat. 923.

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

"Salaries and expenses", $3,230,000;

MINE SAFETY AND HEALTH ADMINISTRATION

"Salaries and expenses", $2,890,000;

BUREAU OF LABOR STATISTICS

"Salaries and expenses", $862,000;

DEPARTMENTAL MANAGEMENT

"Salaries and expenses", $1,689,000, together with not to exceed $60,000 to be derived by transfer from the Employment Security Administration account, Unemployment Trust Fund;

DEPARTMENT OF STATE

(INCLUDING TRANSFERS OF FUNDS)

ADMINISTRATION OF FOREIGN AFFAIRS

"Salaries and expenses", $14,547,000, of which $11,349,000 shall be derived by transfer from "Contributions for international peacekeeping activities";

INTERNATIONAL ORGANIZATIONS AND CONFERENCES

"Missions to international organizations", $356,000, to be derived by transfer from "Contributions for international peacekeeping activities";

INTERNATIONAL COMMISSIONS

"International Boundary and Water Commission, United States and Mexico: Salaries and expenses", $224,000, to be derived by transfer from "Contributions for international peacekeeping activities";

"American sections, international commissions", $71,000, to be derived by transfer from "Contributions for international peacekeeping activities";

DEPARTMENT OF TRANSPORTATION

OFFICE OF THE SECRETARY

"Salaries and expenses", $1,320,000;

"Limitation on Working Capital Fund" (increase of $650,000 in the limitation on Working Capital Fund);

COAST GUARD

"Operating expenses", $29,900,000;
"Reserve training", $1,600,000;

FEDERAL AVIATION ADMINISTRATION

"Operations", $88,000,000;
"Operation and maintenance, Metropolitan Washington Airports", $700,000;

FEDERAL HIGHWAY ADMINISTRATION

"Motor carrier safety", $400,000;
"Limitation on general operating expenses" (increase of $4,700,000 in the limitation on general operating expenses);

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

"Operations and research", $500,000 of which $200,000 shall be derived from the Highway Trust Fund;

FEDERAL RAILROAD ADMINISTRATION

"Office of the Administrator", $450,000;

URBAN MASS TRANSPORTATION ADMINISTRATION

"Administrative expenses", $740,000;

SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION

"Limitation on administrative expenses, Saint Lawrence Seaway Development Corporation" (increase of $30,000 in the limitation on administrative expenses);

RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION

"Research and special programs", $200,000;

OFFICE OF INSPECTOR GENERAL

"Salaries and expenses", $600,000 together with $300,000 derived from funds available under 23 U.S.C. 104(a) for payment of obligations;

DEPARTMENT OF THE TREASURY

OFFICE OF THE SECRETARY

"Salaries and expenses", $1,000,000;

FEDERAL LAW ENFORCEMENT TRAINING CENTER

"Salaries and expenses", $264,000;

BUREAU OF ALCOHOL, TOBACCO AND FIREARMS

"Salaries and expenses", $4,409,000;

UNITED STATES CUSTOMS SERVICE

"Salaries and expenses", $16,000,000;

BUREAU OF THE PUBLIC DEBT

"Administering the public debt", $2,616,000;

INTERNAL REVENUE SERVICE

"Salaries and expenses", $6,500,000;
"Taxpayer service and returns processing", $28,000,000;
"Examinations and appeals", $37,000,000;
"Investigation and collection", $24,710,000;

UNITED STATES SECRET SERVICE

"Salaries and expenses", $7,100,000;

ENVIRONMENTAL PROTECTION AGENCY

"Salaries and expenses", $2,800,000;

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

"Research and program management", $36,286,000;

VETERANS ADMINISTRATION

"Medical care", $151,270,000;
"Medical and prosthetic research", $3,000,000, to remain available until September 30, 1981;
"Medical administration and miscellaneous operating expenses", $599,000;
"General operating expenses", $23,579,000;
"Construction, minor projects", $600,000, to remain available until expended (and an increase of $1,110,000 in the limitation on the Office of Construction);

OTHER INDEPENDENT AGENCIES

ACTION

"Operating expenses, domestic programs", $1,092,000;

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

"Salaries and expenses", $40,000;

ADVISORY COUNCIL ON HISTORIC PRESERVATION

"Salaries and expenses", $25,000;

AMERICAN BATTLE MONUMENTS COMMISSION

"Salaries and expenses", $597,000;

CIVIL AERONAUTICS BOARD

"Salaries and expenses", $1,267,000;

COMMISSION ON CIVIL RIGHTS

"Salaries and expenses", $489,000;

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

"Salaries and expenses", $9,000;

COMMODITY FUTURES TRADING COMMISSION

"Salaries and expenses", $251,000;

COMMUNITY SERVICES ADMINISTRATION

"Community services program", $1,500,000;

CONSUMER PRODUCT SAFETY COMMISSION

"Salaries and expenses", $760,000;

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

"Salaries and expenses", $5,562,000;

EXPORT-IMPORT BANK OF THE UNITED STATES

"Limitation on administrative expenses", (increase of $400,000 in the limitation on administrative expenses);

FARM CREDIT ADMINISTRATION

"Limitation on administrative expenses", (increase of $581,000 in the limitation on administrative expenses);

FEDERAL COMMUNICATIONS COMMISSION

"Salaries and expenses", $3,512,000;

FEDERAL ELECTION COMMISSION

"Salaries and expenses", $300,000;

FEDERAL LABOR RELATIONS AUTHORITY

"Salaries and expenses", $500,000;

FEDERAL MARITIME COMMISSION

"Salaries and expenses", $125,000;

FEDERAL MEDIATION AND CONCILIATION SERVICE

"Salaries and expenses", $745,000;

GENERAL SERVICES ADMINISTRATION

FEDERAL SUPPLY SERVICE

"Operating expenses", $5,854,000;

TRANSPORTATION AND PUBLIC UTILITIES SERVICE

"Operating expenses", $429,000;

NATIONAL ARCHIVES AND RECORDS SERVICE

"Operating expenses", $1,300,000;

AUTOMATED DATA AND TELECOMMUNICATIONS SERVICE

"Operating expenses", $371,000;

ADMINISTRATIVE AND STAFF SUPPORT SERVICES

"Salaries and expenses", $4,200,000;

INTELLIGENCE COMMUNITY STAFF

"Intelligence Community Staff", $396,000;

INTERGOVERNMENTAL AGENCIES

ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS

"Salaries and expenses", $50,000;

APPALACHIAN REGIONAL COMMISSION

"Salaries and expenses", $115,000;

DELAWARE RIVER BASIN COMMISSION

"Salaries and expenses", $4,000;

SUSQUEHANNA RIVER BASIN COMMISSION

"Salaries and expenses", $3,000;

INTERNATIONAL COMMUNICATION AGENCY

(INCLUDING TRANSFER OF FUNDS)

"Salaries and expenses", $6,993,000 and, in addition, $113,673 shall be derived by transfer of the unobligated balance in the appropriation "Special International Exhibitions, (Special Foreign Currency Program)";

INTERNATIONAL TRADE COMMISSION

"Salaries and expenses", $400,000;

INTERSTATE COMMERCE COMMISSION

"Salaries and expenses", $2,700,000;

NATIONAL CAPITAL PLANNING COMMISSION

"Salaries and expenses", $175,000;

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

"Salaries and expenses", $18,000;

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

NATIONAL ENDOWMENT FOR THE ARTS

"Salaries and expenses", $210,000;

NATIONAL LABOR RELATIONS BOARD

"Salaries and expenses", $4,567,000;

NATIONAL MEDIATION BOARD

"Salaries and expenses", $51,000;

NATIONAL TRANSPORTATION SAFETY BOARD

"Salaries and expenses", $540,000;

NUCLEAR REGULATORY COMMISSION

"Salaries and expenses", $4,810,000;

OFFICE OF PERSONNEL MANAGEMENT

(INCLUDING TRANSFER OF FUNDS)

"Salaries and expenses", $4,000,000 together with an additional amount of $1,495,000 for current fiscal year administration expenses for the retirement and insurance programs to be transferred from the appropriate trust funds of the Office of Personnel Management in amounts to be determined by the Office of Personnel Management without regard to other statutes;

PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION

"Salaries and expenses", $50,000;

SECURITIES AND EXCHANGE COMMISSION

"Salaries and expenses", $3,879,000;

SELECTIVE SERVICE SYSTEM

"Salaries and expenses", $350,000;

SMALL BUSINESS ADMINISTRATION

"Salaries and expenses", $8,300,000;

SMITHSONIAN INSTITUTION

"Salaries and expenses", $4,000,000;

"Salaries and expenses, Woodrow Wilson International Center for Scholars", $10,000;

UNITED STATES TAX COURT

"Salaries and expenses", $360,000;

OTHER TEMPORARY COMMISSIONS

Navajo and Hopi Indian Relocation Commission, "Salaries and expenses", $35,000;

UNITED STATES METRIC BOARD

"Salaries and expenses", $73,000.

TITLE III

GENERAL PROVISIONS

(INCLUDING TRANSFER OF FUNDS)

SEC. 301. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 302. Except where specifically increased or decreased elsewhere in this Act, the restrictions contained within appropriations, or provisions affecting appropriations or other funds, available during the fiscal year 1980, limiting the amounts which may be expended for personal services, or for purposes involving personal services, or amounts which may be transferred between appropriations or authorizations available for or involving such services, are hereby increased to the extent necessary to meet increased pay costs authorized by or pursuant to law.

Career appointees.
5 USC 5384 note.

SEC. 303. Notwithstanding any other provision of law, the number of career appointees in any agency paid performance awards during fiscal year 1980 under 5 U.S.C. 5384, or any comparable personnel system established on or after October 13, 1978, may not exceed 25 percent of the number of Senior Executive Service or comparable personnel system positions in any such agency.

41 USC 46–48b.

SEC. 304. (a) Out of the total moneys appropriated for the operation of the departments and agencies of the Federal Government for fiscal year 1980, $220,000,000 of this total appropriated for the purchase of furniture is hereby rescinded. Excluded from this rescission are furniture items produced by Federal Prison Industries, Inc., or by sheltered workshops for the blind and other severely handicapped under the auspices of Public Law 92-28: *Provided,* That such items are fully justified by agency needs. The Director of the Office of Management and Budget is directed to allocate this rescission total among the departments and agencies of the Federal Government and report back to the House and Senate Committees on Appropriations within 30 days following the date of the enactment of this Act as to the allocation made: *Provided further,* That no allocation shall exceed 25 percent of said amount.

93 Stat. 566.

(b) With respect to the provisions of the Treasury, Postal Service, and General Government Appropriations Act, 1980, under the heading General Services Administration, Federal Buildings Fund, Limitations on Availability of Revenue, the aggregate amount made

40 USC 490.

available from the revenues and collections deposited into the Federal Buildings Fund pursuant to section 210(f) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 4901(f)), for the purposes set forth in the provisions contained under such heading is reduced by $15,000,000, which reduction shall apply specifically to the limitation on rental of space under clause (4) of such provisions.

Unresolved and new audits.

SEC. 305. All unresolved audits currently pending within agencies and departments, for which appropriations are made under this Act, shall be resolved not later than September 30, 1981. Any new audits, involving questioned costs, arising after the enactment of this Act shall be resolved within 6 months.

Delinquent debts.

SEC. 306. Each department and agency for which appropriations are made under this Act shall take immediate action (1) to improve the collection of overdue debts owed to the United States within the jurisdiction of that department or agency; (2) to bill interest on delinquent debts as required by the Federal Claims Collection Standards; and (3) to reduce amounts of such debts written off as uncollectible.

Funds for consulting services, submittal to congressional committees.
31 USC 28.

SEC. 307. (a) Effective October 1, 1981, for application in fiscal year 1982, a department, agency, or establishment, as defined by section 2, subchapter I, chapter 1, title 31, United States Code, shall submit annually to the House and Senate Appropriations Committees, as part of its budget justification, the estimated amount of funds requested for consulting services; the appropriation accounts in which these funds are located; and a brief description of the need for these services, including a list of those major programs that require consulting services.

Agency budget controls and progress, submittal to Congress.

(b) Effective October 1, 1981, for application in fiscal year 1982, the Inspector General of such department, agency, or establishment, or comparable official, or if the agency has no Inspector General or comparable official, the agency head or the agency head's designee, shall submit to the Congress along with the agency's budget justification, an evaluation of the agency's progress to institute effective management controls and improve the accuracy and completeness of the data provided to the Federal Procurement Data System regarding consultant service contractual arrangements.

Approved July 8, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 96-1086 (Comm. on Appropriations), No. 96-1149 (Comm. of Conference) and No. 96-934 accompanying H.R. 7325 (Comm. on Appropriations).

SENATE REPORT No. 96-829 (Comm. on Appropriations).

CONGRESSIONAL RECORD, Vol. 126 (1980):

June 17-19, considered and passed House in lieu of H.R. 7325.

June 26-28, considered and passed Senate, amended.

July 1, House disagreed to Senate amendments, and agreed to a conference.

July 2, House and Senate agreed to conference report and resolved amendments in disagreement.

Public Law 96-305
96th Congress

An Act

Relating to the relocation of the Navajo Indians and the Hopi Indians, and for other purposes.

July 8, 1980
[S. 751]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Navajo and Hopi Indian Relocation Amendments Act of 1980".

Navajo and Hopi Indian Relocation Amendments Act of 1980.

SEC. 2. Section 8 of the Act of December 22, 1974 (88 Stat. 1712; 25 U.S.C. 640d), hereinafter referred to as the "Act of December 22, 1974", is amended by striking all of subsection (c) and inserting, in lieu thereof, the following:

25 USC 640d note.
25 USC 640d-7.

"(c)(1) Either as a part of or in a proceeding supplementary to the action authorized in subsection (a) of this section, either tribe, through the chairman of its tribal council for and on behalf of the tribe, including all villages, clans, and individual members thereof, may prosecute or defend an action for the types of relief, including interest, specified in section 18 of this Act, including all subsections thereof, against the other tribe, through its tribal chairman in a like representative capacity, and against the United States as to the types of recovery specified in subsection (a)(3) of such section 18 and subject to the same provisions as contained in said subsection, such action to apply to the lands in issue in the reservation established by the Act of June 14, 1934 (48 Stat. 960).

Tribal lands in issue, determination of rights.

25 USC 640d-17.

"(2) In the event the Hopi Tribe or Navajo Tribe is determined to have any interest in the lands in issue, the right of either tribe to recover hereunder shall be based upon that percentage of the total sums collected, use made, waste committed, and other amounts of recovery, which is equal to the percentage of lands in issue in which either tribe is determined to have such interest.

"(3) Neither laches nor the statute of limitations shall constitute a defense to such proceedings if they are either prosecuted as a part of the action authorized by this section or in a proceeding supplemental thereto, if instituted not later than twenty-four months following a final order of partition and exhaustion of appeals in an action filed pursuant to this section.".

Defense.

SEC. 3. Section 10 of the Act of December 22, 1974, is amended by adding at the end thereof the following new subsections:

25 USC 640d-9.

"(c) The Secretary shall take such action as may be necessary in order to assure the protection, until relocation, of the rights and property of individuals subject to relocation pursuant to this Act, or any judgment of partition pursuant thereto, including any individual authorized to reside on land covered by a life estate conferred pursuant to section 30 of this Act.

"(d) With respect to any individual subject to relocation, the Secretary shall take such action as may be necessary to assure that such individuals are not deprived of benefits or services by reason of their status as an individual subject to relocation.

Partitioned lands, tribal jurisdiction.

"(e)(1) Lands partitioned pursuant to this Act, whether or not the partition order is subject to appeal, shall be subject to the jurisdiction of the tribe to whom partitioned and the laws of such tribe shall apply to such partitioned lands under the following schedule:

"(A) Effective ninety days after the date of enactment of this subsection, all conservation practices, including grazing control and range restoration activities, shall be coordinated and executed with the concurrence of the tribe to whom the particular lands in question have been partitioned, and all such grazing and range restoration matters on the Navajo Reservation lands shall be administered by the Bureau of Indian Affairs Navajo Area Office and on the Hopi Reservation lands by the Bureau of Indian Affairs Phoenix Area Office, under applicable laws and regulations.

"(B) Notwithstanding any provision of law to the contrary, each tribe shall have such jurisdiction and authority over any lands partitioned to it and all persons located thereon, not in conflict with the laws and regulations referred to in paragraph (A) above, to the same extent as is applicable to those other portions of its reservation. Such jurisdiction and authority over partitioned lands shall become effective April 18, 1981.

Effective date.

The provisions of this subsection shall be subject to the responsibility of the Secretary to protect the rights and property of life tenants and persons awaiting relocation as provided in subsections (c) and (d) of this section.

"(f) Any development of lands in litigation pursuant to section 8 of this Act and further defined as 'that portion of the Navajo Reservation lying west of the Executive Order Reservation of 1882 and bounded on the north and south by westerly extensions, to the reservation line, of the northern and southern boundaries of said Executive Order Reservation,' shall be carried out only upon the written consent of each tribe except for the limited areas around the village of Moenkopi and around Tuba City. Each such area has been heretofore designated by the Secretary. 'Development' as used herein shall mean any new construction or improvement to the property and further includes public work projects, power and water lines, public agency improvements, and associated rights-of-way.".

Ante, p. 929.

"Development."

25 USC 640d-10.

SEC. 4. Section 11 of the Act of December 22, 1974, is amended to read as follows:

Land transfer to Navajo Tribe.

"SEC. 11. (a) The Secretary is authorized and directed to—

"(1) transfer not to exceed two hundred and fifty thousand acres of lands under the jurisdiction of the Bureau of Land Management within the State of Arizona and New Mexico to the Navajo Tribe: *Provided*, That, in order to facilitate such transfer, the Secretary is authorized to exchange such lands for State or private lands of equal value or, if they are not equal, the values shall be equalized by the payment of money to the grantor or to the Secretary as the circumstances require so long as payment does not exceed 25 per centum of the total value of the lands transferred out of Federal ownership. The Secretary shall try to reduce the payment to as small an amount as possible. Such lands will be transferred without cost to the Navajo Tribe and title thereto shall be taken by the United States in trust for the benefit of the Navajo Tribe as a part of the Navajo Reservation;

"(2) on behalf of the United States, accept title to not to exceed one hundred and fifty thousand acres of private lands acquired by the Navajo Tribe. Title thereto shall be taken in the name of

the United States in trust for the benefit of the Navajo Tribe as a part of the Navajo Reservation.

"(b) A border of any parcel of land so transferred or acquired shall be within eighteen miles of the present boundary of the Navajo Reservation: *Provided,* That, except as limited by subsection (g) hereof, Bureau of Land Management lands anywhere within the States of Arizona and New Mexico may be used for the purpose of exchanging for lands within eighteen miles of the present boundary of the reservation.

Navajo and Hopi Indian Relocation Commission, selection authority.

"(c) Lands to be so transferred or acquired shall, for a period of three years after the date of enactment of this subsection, be selected by the Navajo Tribe after consultation with the Commission: *Provided,* That, at the end of such period, the Commission shall have the authority to select such lands after consultation with the Navajo Tribe: *Provided further,* That not to exceed thirty-five thousand acres of lands so transferred or acquired shall be selected within the State of New Mexico.

Report to congressional committees.

"(d) The Commission, in consultation with the Secretary, shall within sixty days following the first year of enactment of this subsection report to the House Committee on Interior and Insular Affairs and the Senate Select Committee on Indian Affairs, on the progress of the land transfer program authorized in subsection (a) of this section. Sixty days following the second year of enactment of this subsection the Commission, in consultation with the Secretary, shall submit a report to the House Committee on Interior and Insular Affairs and the Senate Select Committee on Indian Affairs giving the status of the land transfer program authorized in subsection (a) of this section, making any recommendations that the Commission deems necessary to complete the land transfer program.

"(e) Payments being made to any State or local government pursuant to the provisions of the Act of October 20, 1976 (90 Stat. 2662; 31 U.S.C. 1601 et seq.), on any lands transferred pursuant to subsection (a)(1) of this section shall continue to be paid as if such transfer had not occurred.

"(f)(1) For a period of three years after the date of enactment of this subsection, the Secretary shall not accept title to lands acquired pursuant to subsection (a)(2) of this section unless fee title to both surface and subsurface has been acquired or the owner of the subsurface interest consents to the acceptance of the surface interest in trust by the Secretary.

Public notice. Report to congressional committees.

"(2) If, ninety days prior to the expiration of such three year period, the full entitlement of private lands has not been acquired by the Navajo Tribe and accepted by the Secretary in trust for the Navajo Tribe under the restrictions of paragraph (1) of this subsection, the Commission, after public notice, shall, within thirty days, make a report thereon to the House Committee on Interior and Insular Affairs and the Senate Select Committee on Indian Affairs.

"(3) In any case where the Secretary accepts, in trust, title to the surface of lands acquired pursuant to subsection (a)(2) of this section where the subsurface interest is owned by third parties, the trust status of such surface ownership and the inclusion of the land within the Navajo Reservation shall not impair any existing right of the subsurface owner to develop the subsurface interest and to have access to the surface for the purpose of such development.

"(g) No public lands lying north and west of the Colorado River in the State of Arizona shall be available for transfer under this section.

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Selection authority.

"(h) The lands transferred or acquired pursuant to this section shall be administered by the Commission until relocation under the Commission's plan is complete and such lands shall be used solely for the benefit of Navajo families residing on Hopi-partitioned lands as of the date of this subsection who are awaiting relocation under this Act.

Negotiation authority.

"(i) The Commission shall have authority to enter into negotiations with the Navajo and Hopi Tribes with a view to arranging and carrying out land exchanges or leases, or both, between such tribes; and lands which may be acquired or transferred pursuant to this section may, with the approval of the Commission, be included in any land exchange between the tribes authorized under section 23 of this Act.".

25 USC 640d-22.

25 USC 640d-11.

SEC. 5. Section 12 of the Act of December 22, 1974, is amended by—

(1) inserting, in paragraph (1) of subsection (g), the phrase "an independent legal counsel," after the phrase "Executive Director,";

(2) amending subsection (h) to read as follows:

"(h) The Commission is authorized to provide for its own administrative, fiscal, and housekeeping services.";

(3) redesignating subsection (i) as subsection (j) and inserting new subsection (i) as follows:

Federal agencies, assistance to Commission.

"(i)(1) The Commission is authorized to call upon any department or agency of the United States to assist the Commission in implementing its relocation plan and completing relocation within the time required by law, except that the control over and responsibility for completing relocation shall remain in the Commission. In any case in which the Commission calls upon any such department or agency for assistance under this section, such department or agency shall provide reasonable assistance so requested.

Report to Congress.

"(2) On failure of any agency to provide reasonable assistance as required under paragraph (1) of this subsection, the Commission shall report such failure to the Congress.".

25 USC 640d-12.

SEC. 6. Clause (5) of section 13(c) of the Act of December 22, 1974, is amended by striking the word "thirty" and inserting, in lieu thereof, the word "ninety".

25 USC 640d-14.

SEC. 7. Section 15 of the Act of December 22, 1974, is amended by adding at the end thereof a new subsection (f) as follows:

Replacement housing.

"(f) Notwithstanding any other provision of law to the contrary, the Commission shall on a preferential basis provide relocation assistance and relocation housing under subsections (b), (c), and (d) of this section to the head of each household of members of the Navajo Tribe who were evicted from the Hopi Indian Reservation as a consequence of the decision in the case of United States v. Kabinto (456 F. 2d 1087 (1972)): *Provided*, That such heads of households have not already received equivalent assistance from Federal agencies.".

25 USC 640d-18.

SEC. 8. Section 19 of the Act of December 22, 1974, is amended by adding a new subsection (c) as follows:

"(c)(1) Surveying, monumenting, and fencing as required by subsection (b) of this section shall be completed within twelve months after the date of enactment of this subsection with respect to lands partitioned pursuant to section 4 of this Act and within twelve months after a final order of partition with respect to any lands partitioned pursuant to section 8 of this Act.

25 USC 640d-3.

Ante, p. 929.

"(2) The livestock reduction program required under subsection (a) of this section shall be completed within eighteen months after the date of enactment of this subsection.".

SEC. 9. Section 23 of the Act of December 22, 1974, is amended by adding the following sentence at the end thereof: "In the event that the tribes should negotiate and agree on an exchange of lands pursuant to authority granted herein the Commission shall make available 125 per centum of the relocation benefits provided in sections 14 and 15 of this Act to members of either tribe living on land to be exchanged to other than his or her own tribe, except that such benefits shall be available only if, within one hundred and eighty days of the agreement, a majority of the adult members of the tribe who would be eligible to relocate from exchanged lands sign a contract with the Commission to relocate within twelve months of the agreement or such later time as determined by the Commission and such additional benefits shall only be paid to those who actually relocate within such period.".

25 USC 640d-22.
Relocation benefits.

25 USC 640d-13, *ante*, p. 932.

SEC. 10. (a) Section 25(a)(5) of the Act of December 22, 1974, as amended by the Act of July 30, 1979 (Public Law 96-40), is further amended by striking the figure "$1,000,000" and inserting, in lieu thereof, the figure "$4,000,000": *Provided,* That no new budget authority for fiscal year 1980 is authorized to be appropriated.

93 Stat. 318.
25 USC 640d-24.

(b) Section 25(a) of the Act of December 22, 1974, is further amended by adding at the end thereof the following new paragraph:

"(7) For the purpose of carrying out the provisions of subsection (i) of section 30 of this Act, as amended, there is authorized to be appropriated, effective in fiscal year 1981, not to exceed $1,000,000 annually.".

Post, p. 934.

SEC. 11. The Act of December 22, 1974, is amended by adding at the end thereof the following new sections:

"SEC. 27. (a) To facilitate and expedite the relocation efforts of the Commission, there is hereby authorized to be appropriated annually, effective in fiscal year 1981, not to exceed $6,000,000 as a discretionary fund.

Appropriation authorization.
25 USC 640d-25.

"(b) Such funds may only be used by the Commission to—

Funds, use.

"(1) match or pay not to exceed 30 per centum of any grant, contract, or other expenditure of the Federal Government, State or local government, tribal government or chapter, or private organization for the benefit of the Navajo or Hopi Tribe, if such grant, contract, or expenditure would significantly assist the Commission in carrying out its responsibilities or assist either tribe in meeting the burdens imposed by this Act;

"(2) engage or participate, either directly or by contract, in demonstration efforts to employ innovative energy or other technologies in providing housing and related facilities and services in the relocation and resettlement of individuals under this Act.

Not to exceed 5 per centum of such funds may be used for the administrative expenses of the Commission in carrying out this section.

"(c) The Secretary of the Interior and the Secretary of Health and Human Services, as appropriate, shall assign the highest priority, in the next fiscal year after the date of enactment of this subsection to the funding and construction of the Hopi high school and Hopi medical center consistent with any plans already completed and approved by appropriate agencies of the respective departments.

"SEC. 28. (a) No action taken pursuant to, in furtherance of, or as authorized by this Act, as amended, shall be deemed a major Federal action for purposes of the National Environmental Policy Act of 1969, as amended.

25 USC 640d-26.

42 USC 4321 note.

"(b) Any transfer of public lands pursuant to this Act shall be made notwithstanding the provisions of sections 603 and 402(g) of the Federal Land Policy and Management Act (Public Law 94-579; 40 U.S.C. 1701 et seq.).

43 USC 1782, 1752.
Litigation or court action.
25 USC 640d-27.

"SEC. 29. (a) In any litigation or court action between or among the Hopi Tribe, the Navajo Tribe and the United States or any of its officials, departments, agencies, or instrumentalities, arising out of the interpretation or implementation of this Act, as amended, the Secretary shall pay, subject to the availability of appropriations, attorney's fees, costs and expenses as determined by the Secretary to be reasonable. For each tribe, there is hereby authorized to be appropriated not to exceed $120,000 in fiscal year 1981, $130,000 in fiscal year 1982, $140,000 in fiscal year 1983, $150,000 in fiscal year 1984, and $160,000 in fiscal year 1985, and each succeeding year thereafter until such litigation or court action is finally completed.

Appropriation authorization.

"(b) Upon the entry of a final judgment in any such litigation or court action, the court shall award reasonable attorney's fees, costs and expenses to the party, other than the United States or its officials, departments, agencies, or instrumentalities, which prevails or substantially prevails, where it finds that any opposing party has unreasonably initiated or contested such litigation. Any party to whom such an award has been made shall reimburse the United States out of such award to the extent that it has received payments pursuant to subsection (a) of this section.

"(c) To the extent that any award made to a party against the United States pursuant to subsection (b) of this section exceeds the amount paid to such party by the United States pursuant to subsection (a) of this section, such difference shall be treated as if it were a final judgment of the Court of Claims under section 2517 of title 28, United States Code.

"(d) This section shall apply to any litigation or court action pending upon the date of enactment of this section in which a final order, decree, judgment has not been entered, but shall not apply to any action authorized by section 8 or 18(a) of this Act.

Ante, p. 929, 25 USC 640d-17.

"SEC. 30. (a) Paragraph (4) of section 5(a) of the Act of December 22, 1974, is repealed.

Repeal.
25 USC 640d-4.

"(b) Any Navajo head of household who desires to do so may submit an application for a life estate lease to the Commission. Such application shall contain such information as the Commission may prescribe by regulation, such regulation to be promulgated by the Commission within ninety days of enactment of this subsection. To be considered, such application must by filed with the Commission on or before April 1, 1981: *Provided,* That the Commission may, for good cause, grant an extension of one hundred and eighty days.

Life estate leases, application.
25 USC 640d-28.

"(c) Upon receipt of applications filed pursuant to this section, the Commission shall group them in the following order:

Priority ranking.

"(A) Applicants who are determined to be at least 50 per centum disabled as certified by a physician approved by the Commission. Such applicants shall be ranked in the order of the severity of their disability.

"(B) Applicants who are not at least 50 per centum disabled shall be ranked in order of their age with oldest listed first and the youngest listed last: *Provided,* That, if any applicant physically resides in quarter quad Nos. 78 NW, 77 NE, 77 NW, 55 SW, or 54 SE as designated on the Mediator's partition map, such applicant shall be given priority over another applicant of equal age.

"(C) Applicants who did not, as of December 22, 1974, and continuously thereafter, maintain a separate place of abode and actually remain domiciled on Hopi partitioned lands, and who, but for this subsection would be required to relocate, shall be rejected by the Commission.

"(D) Applicants who were not at least forty-nine years of age on December 22, 1974, or are not at least 50 per centum disabled, shall also be rejected by the Commission.

Awarding of leases.

"(d) The Commission shall have authority to award life estate leases to not more than one hundred and twenty applicants with first priority being given to applicants listed pursuant to subsection (c)(A) and the next priority being given to the applicants listed pursuant to subsection (c)(B), in order of such listing.

"(e) Each life estate lease shall consist of a fenced area not exceeding ninety acres of land which shall include the life tenant's present residence and may be used by the life tenant to feed not to exceed twenty-five sheep units per year or equivalent livestock. The Secretary, under existing authority, shall make available to life estate tenants such assistance during that tenure, as may be necessary to enable such tenant to feed such livestock at an adequate nutritional level.

Residents.

"(f) No person may reside on a life estate other than the life tenant, his or her spouse, and minor dependents, and/or such persons who are necessarily present to provide for the care of the life tenant. The Commission shall promulgate regulations to carry out the intent of this subsection.

Tenant's death.

"(g) The life estate tenure shall end by voluntary relinquishment, or at the death of the life tenant or the death of his or her spouse, whichever occurs last: *Provided,* That each survivorship right shall apply only to those persons who were lawfully married to each other on or before the date of enactment of this subsection.

Voluntary estate relinquishment.

"(h) Nothing in this section shall be construed as prohibiting any such applicant who receives a life estate lease under this section from relinquishing, prior to its termination, such estate at any time and voluntarily relocating. Upon voluntary relinquishment of such estate, by such means or instrument as the Secretary shall prescribe, such applicant shall be entitled to relocation benefits from the Secretary comparable to those provided by section 15 of this Act. For life estates terminated by the death of the life tenant or his or her surviving spouse, compensation shall be paid to the estate of the deceased life tenant or surviving spouse based on the fair market value of the habitation and improvements at the time of the expiration of such tenure and not before. Such payment shall be in lieu of any other payment pursuant to subsection (a) of section 15 of this Act. Assistance provided pursuant to section 15(b) of this Act, as amended, shall be paid to any head of household lawfully residing on such life estate pursuant to subsection (f) of this subsection who is required to move by the termination of such life estate by the death of the life tenant and his or her surviving spouse and who does not maintain a residence elsewhere. Compensation under section 15(a) shall be paid and distributed in accordance with the last will and testament of the life tenant or surviving spouse or, in the event no valid last will and testament is left, compensation shall be paid and distributed to his or her heirs in accordance with existing Federal law. Upon termination of a life estate by whatever means, the dependents residing with the individuals having such life estate so terminated shall have ninety days following such termination within which to relocate.

Ante, p. 932.

"(i) The Secretary shall pay, on an annual basis, the fair market rental value of such life estate leases to the tribe to whom the lands leased were partitioned.

"(j) Nothing in this Act or any other law shall be construed to prevent a life tenant from making reasonable improvements on the life estate which are related to the residence and agricultural purposes of the life tenancy.

Additional leases.

"(k) The Commission is authorized to grant not to exceed ten additional life estate leases to Hopi heads of household residing on Navajo-partitioned lands under such terms of this section as may be appropriate.".

Approved July 8, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 96-544 accompanying H.R. 5262 (Comm on Interior and Insular Affairs) and No. 96-1094 (Comm. of Conference).

SENATE REPORT No. 96-373 (Comm. on Indian Affairs).

CONGRESSIONAL RECORD:

Vol. 125 (1979): Oct. 24, considered and passed Senate.
Oct. 29, H.R. 5262 considered and passed House; passage vacated and S. 751, amended, passed in lieu.

Vol. 126 (1980): June 25, House agreed to conference report and receded from its amendment to the title.
June 26, Senate agreed to conference report.

Public Law 96-306
96th Congress

An Act

To authorize the President of the United States to present on behalf of Congress a specially struck gold-plated medal to the United States Summer Olympic Team of 1980.

July 8, 1980
[H.R. 7482]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the President of the United States is authorized to present a gold-plated medal of appropriate design, on behalf of the Congress, to those athletes selected through the Olympic trial process to represent the United States in the summer Olympics of 1980, in recognition of their outstanding athletic achievements and of their determination in the pursuit of excellence. For such purpose, the Secretary of the Treasury is authorized and directed to cause to be stricken six hundred and fifty gold-plated medals with suitable emblems, devices, and inscriptions to be determined by the Secretary of the Treasury.

United States Summer Olympic Team of 1980.
Commemorative medal.

(b) The medals provided for in this Act are national medals for the purpose of section 3551 of the Revised Statutes (31 U.S.C. 368).

(c) Funds to carry out the provisions of this Act, which shall not exceed $50,000, shall be available from amounts currently appropriated for the operation of the Bureau of the Mint. Such funds shall be fully reimbursed from funds appropriated under the Amateur Sports Act of 1978.

Appropriation authorization.

36 USC 371 note.

Approved July 8, 1980.

LEGISLATIVE HISTORY:

CONGRESSIONAL RECORD, Vol. 126 (1980):
June 30, July 1, considered and passed House.
July 2, considered and passed Senate.

Public Law 96-307
96th Congress

Joint Resolution

July 8, 1980
[S.J. Res. 168]

Designating July 18, 1980, as "National POW-MIA Recognition Day".

Whereas the United States has fought in many wars;
Whereas thousands of Americans who served in such wars were captured by the enemy or are missing in action;
Whereas many American prisoners of war were subjected to brutal and inhuman treatment by their enemy captors in violation of international codes and customs for the treatment of prisoners of war and many such prisoners of war died from such treatment;
Whereas it is uncertain whether those Americans missing in action are alive or dead and such uncertainty has caused their families to suffer acute hardship; and
Whereas the sacrifices of American prisoners of war and Americans missing in action and their families is deserving of national recognition: Now, therefore, be it

National POW-MIA Recognition Day. Designation.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That July 18, 1980, is designated as "National POW-MIA Recognition Day", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate ceremonies and activities.

Approved July 8, 1980.

LEGISLATIVE HISTORY:

CONGRESSIONAL RECORD, Vol. 126 (1980):
June 25, considered and passed Senate.
June 26, H.J. Res. 507 considered and passed House.
July 2, S.J. Res. 168 considered and passed House.

Public Law 96-308
96th Congress

An Act

To clarify the circumstances under which territorial provisions in licenses to manufacture, distribute, and sell trademarked soft drink products are lawful under the antitrust laws.

July 9, 1980
[S. 598]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Soft Drink Interbrand Competition Act.
15 USC 3501 note.

SECTION 1. This Act may be cited as the "Soft Drink Interbrand Competition Act".

Trademark licensing contract.
15 USC 3501.

SEC. 2. Nothing contained in any antitrust law shall render unlawful the inclusion and enforcement in any trademark licensing contract or agreement, pursuant to which the licensee engages in the manufacture (including manufacture by a sublicensee, agent, or subcontractor), distribution, and sale of a trademarked soft drink product, of provisions granting the licensee the sole and exclusive right to manufacture, distribute, and sell such product in a defined geographic area or limiting the licensee, directly or indirectly, to the manufacture, distribution, and sale of such product only for ultimate resale to consumers within a defined geographic area: *Provided,* That such product is in substantial and effective competition with other products of the same general class in the relevant market or markets.

15 USC 3502.

SEC. 3. Nothing in this Act shall be construed to legalize the enforcement of provisions described in section 2 of this Act in trademark licensing contracts or agreements described in that section by means of price fixing agreements, horizontal restraints of trade, or group boycotts, if such agreements, restraints, or boycotts would otherwise be unlawful.

15 USC 3501 note.

SEC. 4. In the case of any proceeding instituted by the United States described in subsection (i) of section 5 of the Clayton Act (relating to suspension of the statute of limitations on the institution of proceedings by the United States) (15 U.S.C. 16(i)) which is pending on the date of the enactment of this Act, that subsection shall not apply with respect to any right of action referred to in that subsection based in whole or in part on any matter complained of in that proceeding consisting of the existence or enforcement of any provision described in section 2 of this Act in any trademark licensing contract or agreement described in that section.

"Antitrust law."
15 USC 3503.

SEC. 5. As used in this Act, the term "antitrust law" means the Sherman Act (15 U.S.C. 1 et seq.), the Clayton Act (15 U.S.C. 12 et seq.), and the Federal Trade Commission Act (15 U.S.C. 41 et seq.).

Approved July 9, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1118 accompanying H.R. 3567 (Comm. on the Judiciary).
SENATE REPORT No. 96-645 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 126 (1980):
May 12-15, considered and passed Senate.
June 24, H.R. 3567 considered and passed House; passage vacated and S. 598, amended, passed in lieu.
June 28, Senate agreed to House amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 16, No. 28:
July 10, Presidential statement.

Public Law 96-309
96th Congress

An Act

July 9, 1980
[S. 2546]

To authorize the Secretary of the Interior to design and construct a gunite lining on certain reaches of the Bessemer Ditch in the vicinity of Pueblo, Colorado, to prevent or reduce seepage damage on adjacent properties, and for other purposes.

Bessemer Ditch, Pueblo, Colo., gunite lining.

Liability for damages.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is authorized to design and construct a gunite lining on approximately eight thousand feet of the Bessemer Ditch in the vicinity of Pueblo, Colorado, to prevent or reduce seepage damage on adjacent properties. Nothing in this Act shall be construed in any administrative or judicial proceeding as establishing congressional acquiesence or approval of any theory of Federal liability for damages or as establishing a precedent for Federal liability or responsibility in any situation similar to that addressed by this Act.

Design and construction costs.

Maintenance and replacement.

SEC. 2. The design and construction costs of the works authorized by this Act shall be included as capital costs of Pueblo Dam and Reservoir, Fryingpan-Arkansas Project, Colorado, and shall be allocated to the purposes served by Pueblo Dam and Reservoir in accordance with procedures established pursuant to Federal Reclamation Law. The Bessemer Irrigating Ditch Company, which owns, operates, and maintains the Bessemer Ditch, shall be responsible for maintaining or replacing the completed gunite lining authorized by this Act.

Appropriation authorization.

SEC. 3. There is hereby authorized to be appropriated for fiscal year 1981 for the design and construction of approximately eight thousand feet of gunite lining on the Bessemer Ditch in the vicinity of Pueblo, Colorado, the sum of $1,500,000 (based on October 1979 prices), plus or minus such amounts, if any, as may be justified by reason of changes of construction costs as indicated by engineering cost indices applicable to the type of construction involved.

Approved July 9, 1980.

LEGISLATIVE HISTORY:

SENATE REPORT No. 96-750 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 126 (1980):
May 22, considered and passed Senate.
June 27, considered and passed House.

Public Law 96-310
96th Congress

An Act

To provide for a research, development, and demonstration program to achieve early technology applications for ocean thermal energy conversion systems, and for other purposes.

July 17, 1980
[H.R. 7474]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Ocean Thermal Energy Conversion Research, Development, and Demonstration Act".

Ocean Thermal Energy Conversion Research, Development, and Demonstration Act.
42 USC 9001 note.

FINDINGS AND PURPOSES

42 USC 9001.

SEC. 2. (a) The Congress finds that—

(1) the supply of nonrenewable fuels in the United States is slowly being depleted;

(2) alternative sources of energy must be developed;

(3) ocean thermal energy is a renewable energy resource that can make a significant contribution to the energy needs of the United States;

(4) the technology base for ocean thermal energy conversion has improved over the past two years, and has consequently lowered the technical risk involved in constructing moderate-sized pilot plants with an electrical generating capacity of about ten to forty megawatts;

(5) while the Federal ocean thermal energy conversion program has grown in size and scope over the past several years, it is in the national interest to accelerate efforts to commercialize ocean thermal energy conversion by building pilot and demonstration facilities and to begin planning for the commercial demonstration of ocean thermal energy conversion technology;

(6) a strong and innovative domestic industry committed to the commercialization of ocean thermal energy conversion must be established, and many competent domestic industrial groups are already involved in ocean thermal energy conversion research and development activity; and

(7) consistent with the findings of the Domestic Policy Review on Solar Energy, ocean thermal energy conversion energy can potentially contribute at least one-tenth of quad of energy per year by the year 2000.

(b) Therefore, the purpose of this Act is to accelerate ocean thermal energy conversion technology development to provide a technical base for meeting the following goals:

(1) demonstration by 1986 of at least one hundred megawatts of electrical capacity or energy product equivalent from ocean thermal energy conversion systems;

(2) demonstration by 1989 of at least five hundred megawatts of electrical capacity or energy product equivalent from ocean thermal energy conversion systems;

(3) achievement in the mid-1990's, for the gulf coast region of the continental United States and for islands in the United

States, its possessions and its territories, an average cost of electricity or energy product equivalent produced by installed ocean thermal energy conversion systems that is competitive with conventional energy sources; and

(4) establish as a national goal ten thousand megawatts of electrical capacity or energy product equivalent from ocean thermal energy conversion systems by the year 1999.

COMPREHENSIVE PROGRAM MANAGEMENT PLAN

42 USC 9002.

SEC. 3. (a)(1) The Secretary is authorized and directed to prepare a comprehensive program management plan for the conduct under this Act of research, development, and demonstration activities consistent with the provisions of sections 4, 5, and 6.

Consultation.

(2) In the preparation of such plan, the Secretary shall consult with the Administrator of the National Oceanic and Atmospheric Administration, the Administrator of the Maritime Administration, the Administrator of the National Aeronautics and Space Administration, and the heads of such other Federal agencies and such public and private organizations as he deems appropriate.

Transmittal to congressional committees.

(b) The Secretary shall transmit the comprehensive program management plan to the Committee on Science and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate within nine months after the date of the enactment of this Act.

(c) The detailed description of the comprehensive plan under this section shall include, but need not be limited to—

(1) the anticipated research, development, and demonstration objectives to be achieved by the program;

(2) the program strategies and technology application and market development plans, including detailed milestone goals to be achieved during the next fiscal year for all major activities and projects;

(3) a five-year implementation schedule for program elements with associated budget and program management resources requirements;

(4) a detailed description of the functional organization of the program management including identification of permanent test facilities and of a lead center responsible for technology support and project management;

(5) the estimated relative financial contributions of the Federal Government and non-Federal participants in the pilot and demonstration projects;

(6) supporting research needed to solve problems which may inhibit or limit development of ocean thermal energy conversion systems; and

(7) an analysis of the environmental, economic, and societal impacts of ocean thermal energy conversion facilities.

Modifications, transmittal to Congress.

(d)(1) Concurrently with the submission of the President's annual budget for each subsequent year, the Secretary shall transmit to the Congress a detailed description of modifications which may be necessary to revise appropriately the comprehensive plan as then in effect, setting forth any changes in circumstances which may have occurred since the plan or the last previous modification thereof was transmitted in accordance with this section.

(2) Such description shall also include a detailed justification of any such changes, a detailed description of the progress made toward achieving the goals of this Act, a statement on the status of inter-

agency cooperation in meeting such goals, any comments on and recommendations for improvements in the comprehensive program management plan made by the Technical Panel established under section 8, and any legislative or other recommendations which the Secretary may have to help attain such goals.

RESEARCH AND DEVELOPMENT

SEC. 4. (a) The Secretary shall initiate research or accelerate existing research in areas in which the lack of knowledge limits development of ocean thermal energy conversion systems in order to achieve the purposes of this Act. 42 USC 9003.

(b) The Secretary shall conduct evaluations, arrange for tests, and disseminate to developers information, data, and materials necessary to support the design efforts undertaken pursuant to section 5. Specific technical areas to be addressed shall include, but not be limited to—

(1) interface requirements between the platform and cold water pipe;

(2) cold water pipe deployment techniques;

(3) heat exchangers;

(4) control system simulation;

(5) stationkeeping requirements; and

(6) energy delivery systems, such as electric cable or energy product transport.

(c) The Secretary shall, for the purpose of performing his reponsibilities pursuant to this Act, solicit proposals and evaluate any reasonable new or improved technology, a description of which is submitted to the Secretary in writing, which could lead or contribute to the development of ocean thermal energy conversion system technology.

PILOT AND DEMONSTRATION PLANTS

SEC. 5. (a) The Secretary is authorized to initiate a program to design, construct, and operate well instrumented ocean thermal energy conversion facilities of sufficient size to demonstrate the technical feasibility and potential economic feasibility of utilizing the various forms of ocean thermal energy conversion to displace non-renewable fuels. To achieve the goals of this section and to facilitate development of a strong industrial basis for the application of ocean thermal energy conversion system technology, at least two independent parallel demonstration projects shall be competitively selected. 42 USC 9004.

(b) The specific goals of the demonstration program shall include at a minimum—

(1) the demonstration of ocean thermal energy conversion technical feasibility through multiple pilot and demonstration plants with a combined capacity of at least one hundred megawatts of electrical capacity or energy product equivalent by the year 1986;

(2) the delivery of baseload electricity to utilities located on land or the production of commercially attractive quantities of energy product; and

(3) the continuous operation of each pilot and demonstration facility for a sufficient period of time to collect and analyze system performance and reliability data.

(c) In providing any financial assistance under this section, the Secretary shall (1) give full consideration to those projects which will

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provide energy to United States offshore States, its territories, and its possessions and (2) seek satisfactory cost-sharing arrangements when he deems such arrangements to be appropriate.

TECHNOLOGY APPLICATION

Consultation.
42 USC 9005.

SEC. 6 (a) The Secretary shall, in consultation with the Administrator of the National Oceanic and Atmospheric Administration, the Administrator of the Maritime Administration, the Administrator of the National Aeronautics and Space Administration, and the Technical Panel established under section 8, prepare a comprehensive technology application and market development plan that will permit realization of the ten-thousand-megawatt national goal by the year 1999. Such plans shall include at a minimum—

(1) an assessment of those Government actions required to achieve a two-hundred- to four-hundred-megawatt electrical-commercial demonstration of ocean thermal energy conversion systems in time to have industry meet the goal contained in section 2(b)(2) including a listing of those financial, property, and patent right packages most likely to lead to early commercial demonstration at minimum cost to the Federal Government;

(2) an assessment of further Government actions required to permit expansion of the domestic ocean thermal energy conversion industry to meet the goal contained in section 2(b)(3);

(3) an analysis of further Government actions necessary to aid the industry in minimizing and removing any legal and institutional barriers such as the designation of a lead agency; and

(4) an assessment of the necessary Government actions to assist in eliminating economic uncertainties through financial incentives, such as loan guarantees, price supports, or other inducements.

Transmittal to Congress.

(b) The Secretary shall transmit such comprehensive technology application and market development plan to the Congress within three years after the date of enactment of this Act, and update the plan on an annual basis thereafter.

(c) As part of the competitive procurement initiative for design and construction of the pilot and demonstration projects authorized in section 10(c), each respondent shall include in its proposal (1) a plan leading to a full-scale, first-of-a-kind facility based on a proposed demonstration system; and (2) the financial and other contributions the respondent will make toward meeting the national goals.

PROGRAM SELECTION CRITERIA

42 USC 9006.

SEC. 7. The Secretary shall, in fulfilling his responsibilities under this Act, select program activities and set priorities which are consistent with the following criteria:

(1) realization of energy production costs for ocean thermal energy conversion systems that are competitive with costs from conventional energy production systems;

(2) encouragement of projects for which contributions to project costs are forthcoming from private, industrial, utility, or governmental entities for the purpose of sharing with the Federal Government the costs of purchasing and installing ocean thermal energy conversion systems;

(3) promotion of ocean thermal energy conversion facilities for coastal areas, islands, and isolated military institutions which are vulnerable to interruption in the fossil fuel supply;

(4) preference for and priority to persons and domestic firms whose base of operations is in the United States as will assure that the program under this Act promotes the development of a United States domestic technology for ocean thermal energy conversion; and

(5) preference for proposals for pilot and demonstration projects in which the respondents certify their intent to become an integral part of the industrial infrastructure necessary to meet the goals of this Act.

TECHNICAL PANEL

SEC. 8. (a) A Technical Panel of the Energy Research Advisory Board shall be established to advise the Board on the conduct of the ocean thermal energy conversion program. 42 USC 9007.

(b)(1) The Technical Panel shall be comprised of such representatives from domestic industry, universities, Government laboratories, financial, environmental and other organizations as the Chairman of the Energy Research Advisory Board deems appropriate based on his assessment of the technical and other qualifications of such representative. Membership.

(2) Members of the Technical Panel need not be members of the full Energy Research Advisory Board.

(c) The activities of the Technical Panel shall be in compliance with any laws and regulations guiding the activities of technical and fact-finding groups reporting to the Energy Research Advisory Board.

(d) The Technical Panel shall review and may make recommendations on the following items, among others: Review and recommendations.

(1) implementation and conduct of the programs established by this Act;

(2) definition of ocean thermal energy conversion system performance requirements for various user applications; and

(3) economic, technological, and environmental consequences of the deployment of ocean thermal energy conversion systems.

(e) The Technical Panel shall submit to the Energy Research Advisory Board on at least an annual basis a written report of its findings and recommendations with regard to the program. Such report, shall include at a minimum— Report, submittal to Board.

(1) a summary of the Panel's activities for the preceding year;

(2) an assessment and evaluation of the status of the programs mandated by this Act; and

(3) comments on and recommendations for improvements in the comprehensive program management plan required under section 3.

(f) After consideration of the Technical Panel report, the Energy Research Advisory Board shall submit such report, together with any comments such Board deems appropriate, to the Secretary. Submittal to Secretary.

(g) The heads of the departments, agencies, and instrumentalities of the executive branch of the Federal Government shall cooperate with the Technical Panel in carrying out the requirements of this section and shall furnish to the Technical Panel such information as the Technical Panel deems necessary to carry out this section. Cooperation by agency heads.

(h) The Secretary shall provide sufficient staff, funds, and other support as necessary to enable the Technical Panel to carry out the functions described in this section.

DEFINITIONS

42 USC 9008.

SEC. 9. As used in this Act, the term—

(1) "ocean thermal energy conversion" means a method of converting part of the heat from the Sun which is stored in the surface layers of a body of water into electrical energy or energy product equivalent;

(2) "energy product equivalent" means an energy carrier including, but not limited to, ammonia, hydrogen, or molten salts or an energy-intensive commodity, including, but not limited to, electrometals, fresh water, or nutrients for aquaculture; and

(3) "Secretary" means the Secretary of Energy.

AUTHORIZATION FOR APPROPRIATION

42 USC 9009.

SEC. 10. (a) There is hereby authorized to be appropriated to carry out the purposes of this Act the sum of $20,000,000 for operating expenses for the fiscal year ending September 30, 1981, in addition to any amounts authorized to be appropriated in the fiscal year 1981 Authorization Act pursuant to section 660 of Public Law 95-91.

42 USC 7270.

(b) There is hereby authorized to be appropriated to carry out the purposes of this Act the sum of $60,000,000 for operating expenses for the fiscal year ending September 30, 1982.

(c) Funds are hereby authorized to be appropriated for fiscal year 1981 to carry out the purposes of section 5 of this Act for plant and capital equipment as follows:

Project 81-ES-1, ocean thermal energy conversion demostration plants with a combined capacity of at least one hundred megawatts electrical or the energy product equivalent, sites to be determined, conceptual and preliminary design activities only $5,000,000.

(d) Funds are hereby authorized to be appropriated for fiscal year 1982 to carry out the purposes of section 5 of this Act for plant and capital equipment as follows:

Project 81-ES-1, ocean thermal energy conversion demonstration plants with a combined capacity of at least one hundred megawatts electrical or the energy product equivalent, sites to be determined, conceptual and preliminary design activities only $25,000,000.

Approved July 17, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1092 (Comm. on Science and Technology).
SENATE REPORT No. 96-501 accompanying S. 1830 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Jan. 25, S. 1830 considered and passed Senate.
June 16, 17, H.R. 7474 considered and passed House.
June 28, considered and passed Senate, amended.
July 2, House concurred in Senate amendment to the title and concurred in Senate amendment to the text with an amendment; Senate concurred in House amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 16, No. 29:
July 18, Presidential statement.

Public Law 96-311
96th Congress

An Act

To provide an extension of the time frame for nomination of a selection pool under the Cook Inlet land exchange.

July 17, 1980
[H.R. 7573]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act of August 14, 1979 (93 Stat. 886), is hereby amended to strike "twelve" and insert in lieu thereof "thirty-six".

Cook Inlet land exchange, time extension.
43 USC 1611 note.

Approved July 17, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1135 (Comm. on Interior and Insular Affairs).
CONGRESSIONAL RECORD, Vol. 126 (1980):
June 26, considered and passed House.
July 2, considered and passed Senate.

Public Law 96-312
96th Congress

An Act

July 23, 1980
[S. 2009]

To designate certain public lands in central Idaho as the River of No Return Wilderness, to designate a segment of the Salmon River as a component of the National Wild and Scenic Rivers System, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Central Idaho Wilderness Act of 1980".

Central Idaho Wilderness Act of 1980.

SEC. 2. (a) The Congress finds that—

(1) certain wildlands in central Idaho lying within the watershed of the Salmon River—the famous "River of No Return"—constitute the largest block of primitive and undeveloped land in the conterminous United States and are of immense national significance;

(2) these wildlands and a segment of the Salmon River should be incorporated within the National Wilderness Preservation System and the National Wild and Scenic Rivers System in order to provide statutory protection for the lands and waters and the wilderness-dependent wildlife and the resident and anadromous fish which thrive within this undisturbed ecosystem; and

(3) such protection can be provided without conflicting with established uses.

(b) The purposes of this Act are to—

(1) provide a comprehensive, statutory framework for the protection, administration, and management of the wildlands of the central Idaho region and a portion of the Salmon River through—

(A) the designation of the River of No Return Wilderness;

(B) the addition of certain lands in the "Magruder Corridor" to the existing Selway-Bitterroot Wilderness; and

(C) the incorporation of one hundred and twenty-five miles of the Salmon River as a component of the National Wild and Scenic Rivers System;

(2) end the controversy over which lands within the central Idaho region will be designated wilderness—thereby assuring that certain adjacent lands better suited for multiple uses other than wilderness will be managed by the Forest Service under existing laws and applicable land management plans; and

(3) make a comprehensive land allocation decision for the national forest roadless areas of the central Idaho region.

River of No Return Wilderness, area description and designation. 16 USC 1132 note.

SEC. 3. In furtherance of the purposes of the Wilderness Act of 1964 (78 Stat. 890; 16 U.S.C. 1131), certain lands in the Boise, Challis, Payette, Salmon, Bitterroot, and Nezperce National Forests, Idaho, situated north and south of the Salmon River which comprise approximately two million two hundred and thirty-nine thousand acres, as generally depicted on a map entitled "River of No Return Wilderness, Proposed", dated June 1980, are hereby designated as wilderness and, therefore, as a component of the National Wilderness Preservation System, and shall be known as the River of No Return

Wilderness. The previous classifications of the Idaho and Salmon River Breaks Primitive Areas are hereby abolished. Abolishments.

SEC. 4. In furtherance of the purposes of the Wilderness Act, certain lands in the Bitterroot National Forest, Idaho, which comprise approximately one hundred and five thousand six hundred acres as generally depicted on a map entitled "Magruder Corridor Proposed Additions, Selway-Bitterroot Wilderness", dated November 1979, are hereby incorporated in, and shall be deemed to be a part of, the Selway-Bitterroot Wilderness as designated by Public Law 88-577, and, therefore a component of the National Wilderness Preservation System. Selway-Bitterroot Wilderness, incorporated lands. 16 USC 1131.

SEC. 5. (a)(1) Within three years of the date of enactment of this Act, the Secretary of Agriculture (hereinafter referred to as "the Secretary") shall develop and submit to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the House of Representatives a comprehensive wilderness management plan (hereinafter referred to as "the management plan") for the River of No Return Wilderness which shall consider a broad range of land uses and recreation opportunities. Comprehensive management plan, submittal to congressional committees.

(2) The management plan shall be prepared in coordination with the relevant national forest plans required by section 6 of the National Forest Management Act of 1976 (Public Law 94-588). 16 USC 1604.

(3) The management plan shall include the cultural resources management plan required by section 8(a)(3) of this Act. 16 USC 1608.

(4) In preparing the management plan, the Secretary shall provide for full public participation as required under section 6 of the National Forest Management Act. 16 USC 1604.

(5) The management plan shall, among other things, address the need for, and alternative means of, access to the wilderness.

(b) In administering the River of No Return Wilderness, the Secretary shall, to the maximum extent practicable, consistent with the management plan required by this section, clear obstructions from all of the national forest trails within or adjacent to the wilderness on at least an annual basis.

(c) Subject to valid existing rights, the River of No Return Wilderness designated by this Act shall be administered by the Secretary in accordance with the provisions of the Wilderness Act: *Provided*, That any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this Act. Effective date. 16 USC 1131 note.

(d)(1) Notwithstanding the provisions of the Wilderness Act of 1964 (78 Stat. 890; 16 U.S.C. 1131), including section 4(d)(3), closing wilderness areas after December 31, 1983, to the United States mining laws, and the designation of the River of No Return Wilderness by this Act, within that portion of the wilderness depicted on a map entitled "Special Mining Management Zone—Clear Creek", (hereinafter referred to in this section as the "Special Management Zone"), dated June 1980, all prospecting and exploration for, and development or mining of cobalt and associated minerals shall be considered a dominant use of such land and shall be subject to such laws and regulations as are generally applicable to National Forest System lands not designated as wilderness or other special management areas, including such laws and regulations which relate to the right of access to valid mining claims and private property: *Provided*, That: Special Management Zone, mining. 16 USC 1133.

(A) all mining locations and associated access roads shall be held and used solely for mining or mineral processing operations and uses reasonably incident thereto, except that the Secretary

may permit such access roads to be utilized by the State of Idaho to facilitate the management of the bighorn sheep in the Special Management Zone;

Mineral deposits, patents.

(B) after the date of enactment of this Act, subject to valid existing rights, all patents issued under the mining laws of the United States for claims within the Special Management Zone shall convey title to the mineral deposits within such claims, but each such patent shall reserve to the United States all title in or to the surface of the lands and products thereof, and no use of the surface of the claim or the resources therefrom not reasonably required for carrying on mining and prospecting shall be allowed: *Provided*, That the patentee shall have the right to cut and use as much of the mature timber therefrom as may be needed in the extraction, removal and beneficiation of the mineral deposits, if such needed timber is not otherwise reasonably available, and if such timber is cut under sound principles of forest management as defined by National Forest System rules and regulations: *Provided further*, That the patentee shall have the right to use as much of the surface as reasonably necessary for the mining, removal, extraction, or beneficiation of the mineral deposits located therein; and

(C) consistent with the other provisions of this subsection the Secretary may take all reasonable measures to see that the mining or processing of cobalt and associated minerals within the Special Management Zone does not significantly impair the overall habitat of the bighorn sheep located within, or adjacent to, such Zone.

Report to Congress.

(2) Within three years from the date of enactment of this Act, the Secretary of Defense, after consultation with the Secretaries of the Interior, Agriculture, Commerce, Transportation, and State and the Federal Emergency Management Agency, shall report to Congress on the strategic significance of the materials and minerals found in the Special Management Zone.

Map and legal description, filing with congressional committees.

SEC. 6. As soon as practicable after enactment of this Act, a map and legal description of the River of No Return Wilderness and a map and legal description of the Selway-Bitterroot Wilderness additions shall be filed with the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives, and each such map and legal description shall have the same force and effect as if included in this Act: *Provided*, That correction of clerical and typographical errors in each such legal description and map may be made. Each such map and legal description shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Department of Agriculture.

Permitted land uses, continuation. Aircraft landing.

SEC. 7. (a) Within the River of No Return Wilderness and the Selway-Bitterroot Wilderness additions designated by this Act—

(1) the landing of aircraft, where this use has become established prior to the date of enactment of this Act shall be permitted to continue subject to such restrictions as the Secretary deems desirable: *Provided*, That the Secretary shall not permanently close or render unserviceable any aircraft landing strip in regular use on national forest lands on the date of enactment of this Act for reasons other than extreme danger to aircraft, and in any case not without the express written concurrence of the agency of the State of Idaho charged with evaluating the safety of backcountry airstrips;

(2) the grazing of livestock were established prior to the date of enactment of this Act, shall be permitted to continue subject to such reasonable regulations as the Secretary deems necessary, as provided in paragraph 4(d)(4) of the Wilderness Act; 16 USC 1133.

(3) commercial services may be performed to the extent necessary for activities which are proper for realizing the recreational or other wilderness purposes of the areas as provided in paragraph 4(d)(6) of the Wilderness Act; and

(4) the future construction and maintenance of small hydroelectric generators, domestic water facilities, and related facilities shall be permitted in the Threemile and Jersey Creek drainages along the Salmon River upstream from Mackay Bar.

(b) As provided in paragraph 4(d)(7) of the Wilderness Act, nothing in this Act shall constitute an express or implied claim or denial on the part of the Federal Government as to exemption from State water laws.

(c) As provided in paragraph 4(d)(8) of the Wilderness Act, nothing in this Act shall be construed as affecting the jurisdiction or responsibilities of the State of Idaho with respect to wildlife and fish in the national forests in Idaho.

Cultural resource management program. 16 USC 1131 note. 16 USC 1271 note. 16 USC 1604. 16 USC 470aa note. 16 USC 470 note.

SEC. 8. (a)(1) In furtherance of the purposes of the Wilderness Act, the Wild and Scenic Rivers Act, section 6 of the National Forest Management Act, the Archaeological Resources Protection Act, and the Historic Preservation Act, the Secretary shall cooperate with the Secretary of the Interior and with agencies and institutions of the State of Idaho, in conducting a cultural resource management program within the River of No Return Wilderness and within the Salmon River component of the National Wild and Scenic Rivers System as designated in section 9 of this Act.

(2) Such program shall have as its purposes the protection of archaeological sites and interpretation of such sites for the public benefit and knowledge insofar as these activities are compatible with the preservation of the values for which the wilderness and wild and scenic river were designated to protect.

(3) To carry out the cultural resource management program required by paragraph (1) of this section, the Secretary shall, as part of the comprehensive management plan required under subsection 5 (a) of this Act, develop a cultural resources management plan for the wilderness and the river. Such plan shall—

(A) encourage scientific research into man's past use of the River of No Return Wilderness and the Salmon River corridor;

(B) provide an outline for the protection of significant cultural resources, including protection from vandalism and looting as well as destruction from natural deterioration;

(C) be based on adequate inventory data, supplemented by test excavation data where appropriate;

(D) include a public interpretation program; and

(E) comply with all Federal and State historic and cultural preservation statutes, regulations, guidelines, and standards.

Inventory, report to congressional committees.

(b)(1) Within two years from the date of enactment of this Act, the Secretary shall cooperate with the Secretary of the Interior and with agencies and institutions of the State of Idaho in conducting an inventory of the ranch, homestead, trapper and other cabins, and structures within the River of No Return Wilderness and within the Salmon River component of the National Wild and Scenic Rivers System designated by section 9 of this Act and submit to the Committee on Energy and Natural Resources of the United States

Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives a report on—

(A) the location of these structures;

(B) their historic significance, if any;

(C) their present condition;

(D) recommendations as to which of these structures should be:

(i) stabilized;

(ii) restored;

(iii) maintained; or

(iv) removed;

(E) the estimated cost of such stabilization, restoration, maintenance, or removal; and

(F) the suitability of any of these structures for inclusion in the National Register of Historic Places.

(2) Until such time as the study under this subsection is completed and the required report submitted to the Committees, the Secretary shall not knowingly permit the destruction or significant alteration of any historic cabin or other structure on national forest land within the River of No Return Wilderness or the Salmon River component of the National Wild and Scenic Rivers System designated in section 9 of this Act.

SEC. 9. (a) The Wild and Scenic Rivers Act (82 Stat. 906, as amended; 16 U.S.C. 1271 et seq.), is further amended as follows: In section 3(a) after paragraph (23) insert the following new paragraph:

16 USC 1274.

River designation.

"(24)(A) SALMON, IDAHO.—The segment of the main river from the mouth of the North Fork of the Salmon River downstream to Long Tom Bar in the following classes:

"(i) the forty-six-mile segment from the mouth of the North Fork of the Salmon River to Corn Creek as a recreational river; and

"(ii) the seventy-nine-mile segment from Corn Creek to Long Tom Bar as a wild river; all as generally depicted on a map entitled "Salmon River" dated November 1979, which is on file and available for public inspection in the Office of the Chief, Forest Service, United States Department of Agriculture.

Administration.

"(B) This segment shall be administered by the Secretary of Agriculture: *Provided,* That after consultation with State and local governments and the interested public, the Secretary shall take such action as is required by subsection (b) of this section within one year from the date of enactment of this paragraph.

"(C) The use of motorboats (including motorized jetboats) within this segment of the Salmon River shall be permitted to continue at a level not less than the level of use which occurred during calendar year 1978.

Mining, prohibition.

"(D) Subject to existing rights of the State of Idaho, including the right of access, with respect to the beds of navigable streams, tributaries or rivers, dredge and placer mining in any form including any use of machinery for the removal of sand and gravel for mining purposes shall be prohibited within the segment of the Salmon River designated as a component of the Wild and Scenic Rivers System by this paragraph; within the fifty-three-mile segment of the Salmon River from Hammer Creek downstream to the confluence of the Snake River; and within the Middle Fork of the Salmon River; and its tributary streams in their entirety: *Provided,* That nothing in this paragraph shall be deemed to prohibit the removal of sand and gravel, outside the boundaries of the River of No Return Wilderness or the Gospel-Hump Wilderness, above the high water mark of the Salmon River or the Middle Fork and its tributaries for the purposes

of construction or maintenance of public roads: *Provided further,* That this paragraph shall not apply to any written mineral leases approved by the Board of Land Commissioners of the State of Idaho prior to January 1, 1980.

"(E) The provisions of section 7(a) of this Act with respect to the licensing of dams, water conduits, reservoirs, powerhouses, transmission lines or other project works, shall apply to the fifty-three-mile segment of the Salmon River from Hammer Creek downstream to the confluence of the Snake River.

"(F) For the purposes of the segment of the Salmon River designated as a component of the Wild and Scenic Rivers System by this paragraph, there is hereby authorized to be appropriated from the Land and Water Conservation Fund, after October 1, 1980, not more than $6,200,000 for the acquisition of lands and interests in lands.". Appropriation authorization.

(b) That segment of the main Salmon River designated as a component of the Wild and Scenic Rivers System by this Act, which lies within the River of No Return Wilderness or the Gospel-Hump Wilderness designated by Public Law 95-237, shall be managed under the provisions of the Wild and Scenic Rivers Act, as amended, and the regulations promulgated pursuant thereto, notwithstanding section 10(b) of the Wild and Scenic Rivers Act or any provisions of the Wilderness Act to the contrary. 16 USC 1281 note. 16 USC 1132 note. 16 USC 1271 note. 16 USC 1281. 16 USC 1131 note.

SEC. 10. (a) Notwithstanding any other provision of law, the Secretary shall render, within 30 days from the date of enactment of this Act, a final administrative decision on any and all administrative appeals pending before him or any other official of the Department of Agriculture on the date of enactment of this Act with regard to the following land management plans and corresponding environmental statements (hereinafter referred to in this section as "the plans and environmental statements"): Administration.

(1) The Warren Planning Unit Land Management Plan and Final Environmental Statement, Payette National Forest, Idaho, dated May 9, 1979; and

(2) The Landmark Planning Unit Land Management Plan and Final Environmental Statement, Boise National Forest, Idaho, dated May 17, 1979.

(b)(1) Any petition for review of the decision of the Secretary with regard to any of the plans and environmental statements referenced in this section, shall be filed in the United States District Court for the District of Idaho (hereinafter referred to as "the court") within thirty days after the final administrative decision of the Secretary required by this section, or the petition shall be barred. Such court shall have exclusive jurisdiction to determine such proceeding in accordance with standard procedures as supplemented by procedures hereinafter provided and no other district court of the United States shall have jurisdiction over any such challenge in any proceeding instituted prior to, on, or after the date of enactment of this Act. Review, petition filing.

(2) Notwithstanding any other provision of law, the court may set rules governing the procedures of any such proceeding which set page limits on briefs and time limits for filing briefs and motions and other actions which are shorter than the limits specified in the Federal Rules of Civil or Appellate Procedure. Court procedures.

(3) Any such proceeding before the court shall be assigned for hearing and completed at the earliest possible date, and shall be expedited in every way. The court shall render its final decision relative to any challenge within one hundred and eighty days from the date such challenge is brought unless the court determines that a

longer period of time is required to satisfy the requirements of the United States Constitution.

Review.

(c) Any review of any decision of the United States District Court for the District of Idaho shall be made by the Ninth Circuit Court of Appeals of the United States and shall be assigned for hearing and completed at the earliest possible date, and shall be expedited in every possible way.

Approved July 23, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 96-838, Pt. 1 (Comm. on Interior and Insular Affairs) and No. 96-1126 (Comm. of Conference).

SENATE REPORT No. 96-414 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD:

Vol. 125 (1979): Nov. 20, considered and passed Senate.

Vol. 126 (1980): Apr. 16, considered and passed House, amended.

June 26, Senate agreed to conference report.

June 30, July 1, House agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:

Vol. 16, No. 30 (1980): July 23, Presidential statement.

Public Law 96-313
96th Congress

Joint Resolution

To provide for the reappointment of William A. M. Burden as a citizen regent of the Board of Regents of the Smithsonian Institution.

July 25, 1980
[S.J. Res. 180]

Smithsonian Institution.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the vacancy in the Board of Regents of the Smithsonian Institution, of the class other than Members of Congress, which will occur by the expiration of the term of William A. M. Burden of New York on August 30, 1980, be filled by the reappointment of the present incumbent for the statutory term of six years.

Approved July 25, 1980.

LEGISLATIVE HISTORY:

SENATE REPORT No. 96-819 (Comm. on Rules and Administration).
CONGRESSIONAL RECORD, Vol. 126 (1980):
June 26, considered and passed Senate.
July 22, considered and passed House.

Public Law 96-314
96th Congress

Joint Resolution

July 25, 1980
[S.J. Res. 181]

To provide for the reappointment of Murray Gell-Mann as a citizen regent of the Board of Regents of the Smithsonian Institution.

Smithsonian Institution.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the vacancy in the Board of Regents of the Smithsonian Institution, of the class other than Members of Congress, which will occur by the expiration of the term of Murray Gell-Mann of California on August 30, 1980, be filled by the reappointment of the present incumbent for the statutory term of six years.

Approved July 25, 1980.

LEGISLATIVE HISTORY:

SENATE REPORT No. 96-820 (Comm. on Rules and Administration).
CONGRESSIONAL RECORD, Vol. 126 (1980):
June 25, considered and passed Senate.
July 22, considered and passed House.

Public Law 96-315
96th Congress

An Act

To provide for additional authorization for appropriations for the Tinicum National Environmental Center.

July 25, 1980
[S. 2382]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Tinicum National Environmental Center, appropriation authorization. 86 Stat. 391. 16 USC 668dd note.

SECTION 1. The Act of June 30, 1972, entitled "An Act to provide for the establishment of the Tinicum National Environmental Center in the Commonwealth of Pennsylvania, and for other purposes" is amended—

(1) by amending section 7 to read as follows:

"SEC. 7. There are authorized to be appropriated, $19,500,000 (of which $8,400,000 shall be available beginning October 1, 1980) for acquisition of the Tinicum National Environmental Center, for construction of environmental educational center facilities, and for other development projects on the Center, to remain available until September 30, 1985."; and 86 Stat. 392.

(2) by adding at the end thereof the following new section:

Folcroft landfill, environmental hazards.

"SEC. 8. The Administrator of the Environmental Protection Agency, in consultation and cooperation with the Fish and Wildlife Service, is directed to investigate potential environmental health hazards resulting from the Folcroft landfill, within the authorized boundary of the Tinicum National Environmental Center, and to develop alternative recommendations as to how such hazards, if any, might best be addressed in order to protect the refuge and the general public.".

16 USC 668dd note. Sailors' Snug Harbor.

SEC. 2. (a) If—

(1) the property known as Sailors' Snug Harbor, consisting of approximately eighty acres and located in the city of New York, is donated to the Secretary of the Interior (hereinafter referred to as the "Secretary") by the city of New York; and

(2) the Secretary and the city of New York and the Snug Harbor Cultural Center, Incorporated, enter into mutually satisfactory cooperative agreements of the kind described in subsection (c) of this section, the Secretary shall manage Sailors' Snug Harbor as a National Wildlife Refuge until the completion of the study required by subsection (e) of this section.

Management as National Wildlife Refuge.

(b) Except as may be provided for in cooperative agreements referred to in paragraph (2) of subsection (a) and in subsection (c) of this section, the property acquired under paragraph (1) of subsection (a) of this section shall be administered in accordance with the provisions of the National Wildlife Refuge System Administration Act of 1966.

16 USC 668dd note. Cooperative agreements.

(c)(1) The Secretary and the city of New York and the Snug Harbor Cultural Center, Incorporated, shall endeavor to enter into cooperative agreements regarding the respective functions each such party will undertake with respect to the property acquired under paragraph (1) of subsection (a) of this section, except that the Secretary shall only be responsible for the protection of such property and the

costs for normal operation and maintenance of such property as a refuge.

Additional statutory authority.

(2) In addition, the Secretary may, if he deems appropriate, utilize any additional statutory authority that he may have for the conservation and development of wildlife and natural resources on such property and interpretative environmental education at such property.

Eligibility for funds.

(3) Nothing in this Act or cooperative agreements negotiated pursuant to this Act may be construed as affecting in any manner, or to any extent, the eligibility (as in effect on the day before the date of the enactment of this Act) of the city of New York, the Snug Harbor Cultural Center, Incorporated, or the State of New York, under any Federal law for funds or other assistance for use in the restoration or preservation of historic buildings, or in the carrying out of developmental and recreational projects and programs, within the area included in such property.

Fee area.
16 USC 715s.

(d) For purposes of section 401 of the Act of June 15, 1935 (commonly known as the "Refuge Revenue Sharing Act"), the property acquired under paragraph (1) of subsection (a) of this section may not be considered to be, nor treated as, a fee area within the meaning of subsection (g)(2) of such section 401.

Study.

(e) Within two years after the date of enactment of this Act, the Secretary shall complete a study of the property acquired under paragraph (1) of subsection (a) of this section to determine how the resources and facilities could best be protected and managed under other statutory authorities available to him. Notwithstanding the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd-668ee) and pursuant to Reorganization Plan No. 3 of 1950, such property shall upon completion of such study, either be placed permanently in the National Wildlife Refuge System by the Secretary or transferred by the Secretary to any more appropriate agency of the Department of the Interior to be managed as, and become a part of, that agency consistent with its general statutory responsibilities. Notwithstanding the provisions of this Act, subsequent to such transfer, if any, the resources and facilities identified in the study shall be managed consistent with the findings of the study and that agency's authorized programs using the funding authorized under this section.

5 USC app.

Appropriation authorization.

(f) There are authorized to be appropriated to the Department of the Interior not to exceed $1,750,000 for purposes of carrying out this section during the period covering fiscal years 1981, 1982, and 1983; except that no part of any funds appropriated pursuant to this section may be expended for the restoration or preservation of any building within the property acquired under paragraph (1) of subsection (a) of this section or for activities other than those enumerated in subsections (b) and (c) of this section.

Back Bay National Wildlife Refuge, vehicular access.

SEC. 3. (a) During any period in which the Secretary of the Interior, by regulation, limits vehicular access to Back Bay National Wildlife Refuge, the Secretary of the Interior shall issue to any eligible applicant, a renewable annual permit to enable, the applicant to commute across the Back Bay National Wildlife Refuge. For purposes of this section, the term "eligible applicant" shall include all full-time residents who can furnish to the Refuge Manager, Back Bay National Wildlife Refuge, adequate proof of residence commencing prior to December 31, 1979, on the Outer Banks from the refuge boundary south to and including the village of Corolla, North Carolina, as long as they remain full-time residents. The south boundary of the area for access consideration is defined as a straight east-west line extending

"Eligibile applicant."

from Currituck Sound to the Atlantic Ocean and passing through a point one thousand and six hundred feet due south of the Currituck Lighthouse.

(b) As used in this section, the terms— Definitions.

(1) "residence" means a place of general abode;

(2) "place of general abode" means a principal, actual dwelling place in fact, without regard to intent; and

(3) "dwelling" means a residential structure occupied on year-round basis by the permit applicant and shall not include seasonal or part-time dwelling units such as beach houses, vacation cabins, or structures which are intermittently occupied.

(c) Any permit issued pursuant to this section shall assure that eligible applicants shall be allowed at least two round trips per day. Travel pursuant to such permits may be restricted to between the hours of 5:00 a.m. and 12:00 p.m. (midnight). In addition the Refuge Manager may make exceptions to access restrictions for qualified permittees who have demonstrated to the satisfaction of the Refuge Manager a need for additional access relating to health or livelihood.

(d) Permits pursuant to this section shall be renewed upon the submission of a signed, notarized statement by an eligible applicant that conditions of the previous permit have not changed. Permit renewal.

(e) The Secretary of the Interior, may, subject to the foregoing provisions of this section, issue such regulations as are necessary to protect the resources of the refuge.

Approved July 25, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-890 accompanying H.R. 5679 (Comm. on Merchant Marine and Fisheries).

SENATE REPORT No. 96-675 (Environment and Public Works).

CONGRESSIONAL RECORD, Vol. 126 (1980):

May 6, considered and passed Senate.

May 19, H.R. 5679 considered and passed House; passage vacated and S. 2382, amended, passed in lieu.

July 2, Senate concurred in House amendment with amendments; House concurred in Senate amendments.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 16, No. 31:

July 26, Presidential statement.

79-194 O—81—pt. 1——64 : QL3

Public Law 96-316
96th Congress

An Act

July 30, 1980
[S. 2240]

To authorize appropriations to the National Aeronautics and Space Administration for research and development, construction of facilities, and research and program management, and for other purposes.

National Aeronautics and Space Administration Authorization Act, 1981.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there is hereby authorized to be appropriated to the National Aeronautics and Space Administration to become available October 1, 1980:

(a) For "Research and development", for the following programs:

(1) Space Shuttle, $1,873,000,000;
(2) Space flight operations, $779,500,000;
(3) Expendable launch vehicles, $55,700,000;
(4) Physics and astronomy, $352,700,000;
(5) Planetary exploration, $179,600,000;
(6) Life sciences, $45,200,000;
(7) Space applications, $378,700,000;
(8) Technology utilization, $12,600,000;
(9) Aeronautical research and technology, $290,800,000;
(10) Space research and technology, $115,200,000;
(11) Energy technology, $4,000,000; and
(12) Tracking and data acquisition, $349,750,000.

Facilities, construction.

(b) For "Construction of facilities", including land acquisition, as follows:

(1) Construction of man-vehicle systems research facility, Ames Research Center, $7,480,000;
(2) Modification of steam ejector system and thermal protection laboratory, Ames Research Center, $2,300,000;
(3) Modification of the unitary plan wind tunnel, Ames Research Center, $3,400,000;
(4) Modifications to various buildings for energy conservation, Jet Propulsion Laboratory, $1,500,000;
(5) Modifications to various buildings for seismic protection, Jet Propulsion Laboratory, $2,000,000;
(6) Rehabilitation of high temperature hot water system, zone 2, industrial area, John F. Kennedy Space Center, $760,000;
(7) Modifications for avionics integration research laboratory, Langley Research Center, $5,756,000;
(8) Modifications to aircraft landing dynamics facility, Langley Research Center, $15,000,000;
(9) Rehabilitation and modification of gas dynamics laboratory, Langley Research Center, $2,000,000;
(10) Decommissioning of Plum Brook Station reactor facility, Lewis Research Center, $1,000,000;
(11) Modifications to central air system, various buildings, Lewis Research Center, $7,655,000;
(12) Rehabilitation of electrical switchgear, engine research building, Lewis Research Center, $1,700,000;

(13) Rehabilitation of roof, Phase II, Building 103, Michoud Assembly Facility, $3,800,000;

(14) Rehabilitation of chilled water system, Michoud Assembly Facility, $782,000;

(15) Modification of 26-meter antenna, DSS-44, Canberra, Australia, $1,200,000;

(16) Replacement of azimuth radial bearing, DSS-14, Goldstone, California, $950,000;

(17) Space Shuttle facilities at various locations as follows:

(A) Modification of manufacturing and final assembly facilities for external tanks, Michoud Assembly Facility, $5,400,000;

(B) Modifications to solid rocket motor manufacturing and assembly facilities, Thiokol plant, Wasatch, Utah, $2,700,000;

(C) Minor Shuttle-unique projects, various locations, $2,000,000;

(18) Space Shuttle payload facility: Rehabilitation and modification for payload ground support operations, John F. Kennedy Space Center, $1,617,000;

(19) Repair of facilities at various locations, not in excess of $500,000 per project, $15,000,000;

(20) Rehabilitation and modification of facilities at various locations, not in excess of $500,000 per project, $20,000,000;

(21) Minor construction of new facilities and additions to existing facilities at various locations, not in excess of $250,000 per project, $4,000,000; and

(22) Facility planning and design not otherwise provided for, $10,000,000.

Research and program management.

(c) For "Research and program management", $1,033,154,000 and such additional or supplemental amounts as may be necessary for increases in salary, pay, retirement, or other employee benefits authorized by law.

Research and development.

(d) Notwithstanding the provisions of subsection 1(g), appropriations hereby authorized for "Research and development" may be used (1) for any items of a capital nature (other than acquisition of land) which may be required at locations other than installations of the Administration for the performance of research and development contracts, and (2) for grants to nonprofit institutions of higher education, or to nonprofit organizations whose primary purpose is the conduct of scientific research, for purchase or construction of additional research facilities; and title to such facilities shall be vested in the United States unless the Administrator determines that the national program of aeronautical and space activities will best be served by vesting title in any such grantee institution or organization. Each such grant shall be made under such conditions as the Administrator shall determine to be required to insure that the United States will receive therefrom benefit adequate to justify the making of that grant. None of the funds appropriated for "Research and development" pursuant to this Act may be used in accordance with this subsection for the construction of any major facility, the estimated cost of which, including collateral equipment, exceeds $250,000, unless the Administrator or his designee has notified the Speaker of the House of Representatives and the President of the Senate and the Committee on Science and Technology of the House of Representatives and the Committee on Commerce, Science, and

Transportation of the Senate of the nature, location, and estimated cost of such facility.

(e) When so specified and to the extent provided in an appropriation act, (1) any amount appropriated for "Research and development" or for "Construction of facilities" may remain available without fiscal year limitation, and (2) maintenance and operation of facilities, and support services contracts may be entered into under the "Research and program management" appropriation for periods not in excess of twelve months beginning at any time during the fiscal year.

Scientific consultations or extraordinary expenses.

(f) Appropriations made pursuant to subsection 1(c) may be used, but not to exceed $25,000, for scientific consultations or extraordinary expenses upon the approval or authority of the Administrator and his determination shall be final and conclusive upon the accounting officers of the Government.

(g) Of the funds appropriated pursuant to subsections 1(a) and 1(c), not in excess of $75,000 for each project, including collateral equipment, may be used for construction of new facilities and additions to existing facilities, and for repair, rehabilitation, or modification of facilities: *Provided*, That, of the funds appropriated pursuant to subsection 1(a), not in excess of $250,000 for each project, including collateral equipment, may be used for any of the foregoing for unforeseen programmatic needs.

SEC. 2. Authorization is hereby granted whereby any of the amounts prescribed in paragraphs (1) through (21), inclusive, of subsection 1(b)—

(1) in the discretion of the Administrator or his designee, may be varied upward 10 percent, or

Report to congressional committees.

(2) following a report by the Administrator or his designee to the Committee on Science and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on the circumstances of such action, may be varied upward 25 percent,

to meet unusual cost variations, but the total cost of all work authorized under such paragraphs shall not exceed the total of the amounts specified in such paragraphs.

Transfer of funds.

SEC. 3. Not to exceed one-half of 1 percent of the funds appropriated pursuant to subsection 1(a) hereof may be transferred to the "Construction of facilities" appropriation, and, when so transferred, together with $10,000,000 of the funds appropriated pursuant to subsection 1(b) hereof (other than funds appropriated pursuant to paragraph (22) of such subsection) shall be available for expenditure to construct, expand, or modify laboratories and other installations at any location (including locations specified in subsection 1(b)), if (1) the Administrator determines such action to be necessary because of changes in the national program of aeronautical and space activities or new scientific or engineering developments, and (2) he determines that deferral of such action until the enactment of the next authorization act would be inconsistent with the interest of the Nation in aeronautical and space activities. The funds so made available may be expended to acquire, construct, convert, rehabilitate, or install permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment. No portion of such sums may be obligated for expenditure or expended to construct, expand, or modify laboratories and other installations unless (A) a period of thirty days has passed after the Administrator or his designee has transmitted to the Speaker of the House of

Representatives and to the President of the Senate and to the Committee on Science and Technology of the House of Representatives and to the Committee on Commerce, Science, and Transportation of the Senate a written report containing a full and complete statement concerning (1) the nature of such construction, expansion, or modification, (2) the cost thereof including the cost of any real estate action pertaining thereto, and (3) the reason why such construction, expansion, or modification is neccessary in the national interest, or (B) each such committee before the expiration of such period has transmitted to the Administrator written notice to the effect that such committee has no objection to the proposed action.

SEC. 4. Notwithstanding any other provision of this Act—

(1) no amount appropriated pursuant to this Act may be used for any program deleted by the Congress from requests as originally made to either the House Committee on Science and Technology or the Senate Committee on Commerce, Science, and Transportation,

(2) no amount appropriated pursuant to this Act may be used for any program in excess of the amount actually authorized for that particular program by subsections 1(a) and 1(c), and

(3) no amount appropriated pursuant to this Act may be used for any program which has not been presented to or requested of either such committee,

unless (A) a period of thirty days has passed after the receipt by the Speaker of the House of Representatives and the President of the Senate and each such committee of notice given by the Administrator or his designee containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action, or (B) each such committee before the expiration of such period has transmitted to the Administrator written notice to the effect that such committee has no objection to the proposed action.

Federal research funds, geographical distribution. 42 USC 2459 note.

SEC. 5. It is the sense of the Congress that it is in the national interest that consideration be given to geographical distribution of Federal research funds whenever feasible, and that the National Aeronautics and Space Administration should explore ways and means of distributing its research and development funds whenever feasible.

Short title.

SEC. 6. This Act may be cited as the "National Aeronautics and Space Administration Authorization Act, 1981".

Approved July 30, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 96-899 accompanying H.R. 6413 (Comm. on Science and Technology) and No. 96-1142 (Comm. of Conference).

SENATE REPORT No. 96-719 (Comm. on Commerce, Science and Transportation).

CONGRESSIONAL RECORD, Vol. 126 (1980):

June 3, considered and passed Senate.

June 13, H.R. 6413 considered and passed House; passage vacated and S. 2240, amended, passed in lieu.

July 2, House agreed to conference report.

July 21, Senate agreed to conference report.

Public Law 96-317
96th Congress

An Act

July 31, 1980
[S. 1647]

To establish a Commission to gather facts to determine whether any wrong was committed against those American citizens and permanent resident aliens affected by Executive Order Numbered 9066, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Commission on Wartime Relocation and Internment of Civilians Act.
50 USC app. 1981 note.

SHORT TITLE

SECTION 1. This Act may be cited as the "Commission on Wartime Relocation and Internment of Civilians Act".

FINDINGS AND PURPOSE

50 USC app. 1981 note

SEC. 2. (a) The Congress finds that—

(1) approximately one hundred and twenty thousand civilians were relocated and detained in internment camps pursuant to Executive Order Numbered 9066, issued February 19, 1942, and other associated actions of the Federal Government;

3 CFR, 1938-1943 Comp., p. 1092.

(2) approximately one thousand Aleut civilian American citizens were relocated and, in some cases, detained in internment camps pursuant to directives of United States military forces during World War II and other associated actions of the Federal Government; and

(3) no sufficient inquiry has been made into the matters described in paragraphs (1) and (2).

(b) It is the purpose of this Act to establish a commission to—

(1) review the facts and circumstances surrounding Executive Order Numbered 9066, issued February 19, 1942, and the impact of such Executive order on American citizens and permanent resident aliens;

(2) review directives of United States military forces requiring the relocation and, in some cases, detention in internment camps of American citizens, including Aleut civilians, and permanent resident aliens of the Aleutian and Pribilof Islands; and

(3) recommend appropriate remedies.

ESTABLISHMENT OF COMMISSION

50 USC app. 1981 note.

SEC. 3. (a) There is established the Commission on Wartime Relocation and Internment of Civilians (hereinafter referred to as the "Commission").

Membership.

(b) The Commission shall be composed of seven members, who shall be appointed within ninety days after the date of enactment of this Act as follows:

(1) Three members shall be appointed by the President.

(2) Two members shall be appointed by the Speaker of the House of Representatives.

(3) Two members shall be appointed by the President pro tempore of the Senate.

(c) The term of office for members shall be for the life of the Commission. A vacancy in the Commission shall not affect its powers, and shall be filled in the same manner in which the original appointment was made. Term.

(d) The first meeting of the Commission shall be called by the President within one hundred and twenty days after the date of enactment of this Act, or within thirty days after the date on which legislation is enacted making appropriations to carry out this Act, whichever date is later. Meetings.

(e) Four members of the Commission shall constitute a quorum, but a lesser number may hold hearings. Quorum.

(f) The Commission shall elect a Chairman and Vice Chairman from among its members. The term of office of each shall be for the life of the Commission.

(g) Each member of the Commission who is not otherwise employed by the United States Government shall receive compensation at a rate equal to the daily rate prescribed for GS-18 under the General Schedule contained in section 5332 of title 5, United States Code, for each day, including traveltime, he or she is engaged in the actual performance of his or her duties as a member of the Commission. A member of the Commission who is an officer or employee of the United States Government shall serve without additional compensation. All members of the Commission shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties. Compensation.

DUTIES OF THE COMMISSION

SEC. 4. (a) It shall be the duty of the Commission to— 50 USC app. 1981 note.

(1) review the facts and circumstances surrounding Executive Order Numbered 9066, issued February 19, 1942, and the impact of such Executive order on American citizens and permanent resident aliens; Review. 3 CFR 1938-1943. Comp., p. 1092.

(2) review directives of United States military forces requiring the relocation and, in some cases, detention in internment camps of American citizens, including Aleut civilians, and permanent resident aliens of the Aleutian and Pribilof Islands; and

(3) recommend appropriate remedies.

(b) The Commission shall hold public hearings in such cities of the United States that it finds appropriate. Hearings.

(c) The Commission shall submit a written report of its findings and recommendations to Congress not later than the date which is one year after the date of the first meeting called pursuant to section 3(d) of this Act. Report to Congress.

POWERS OF THE COMMISSION

SEC. 5. (a) The Commission or, on the authorization of the Commission, any subcommittee or member thereof, may, for the purpose of carrying out the provisions of this Act, hold such hearings and sit and act at such times and places, and request the attendance and testimony of such witnesses and the production of such books, records, correspondence, memorandum, papers, and documents as the Commission or such subcommittee or member may deem advisable. The Commission may request the Attorney General to invoke the aid of an appropriate United States district court to require, by subpoena or otherwise, such attendance, testimony, or production. 50 USC app. 1981 note.

(b) The Commission may acquire directly from the head of any department, agency, independent instrumentality, or other authority of the executive branch of the Government, available information which the Commission considers useful in the discharge of its duties. All departments, agencies, and independent instrumentalities, or other authorities of the executive branch of the Government shall cooperate with the Commission and furnish all information requested by the Commission to the extent permitted by law.

ADMINISTRATIVE PROVISIONS

50 USC app. 1981 note.

SEC. 6. The Commission is authorized to—

5 USC 5101 *et seq.*, 5331.

(1) appoint and fix the compensation of such personnel as may be necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that the compensation of any employee of the Commission may not exceed a rate equivalent to the rate payable under GS-18 of the General Schedule under section 5332 of such title;

5 USC 5332.

5 USC 3109.

(2) obtain the services of experts and consultants in accordance with the provisions of section 3109 of such title;

(3) enter into agreements with the Administrator of General Services for procurement of necessary financial and administrative services, for which payment shall be made by reimbursement from funds of the Commission in such amounts as may be agreed upon by the Chairman of the Commission and the Administrator;

(4) procure supplies, services, and property by contract in accordance with applicable laws and regulations and to the extent or in such amounts as are provided in appropriation Acts; and

(5) enter into contracts with Federal or State agencies, private firms, institutions, and agencies for the conduct of research or surveys, the preparation of reports, and other activities necessary to the discharge of the duties of the Commission, to the extent or in such amounts as are provided in appropriation Acts.

TERMINATION

SEC. 7. The Commission shall terminate ninety days after the date on which the report of the Commission is submitted to Congress pursuant to section 4(c) of this Act. 50 USC app. 1981 note.

AUTHORIZATION OF APPROPRIATIONS

SEC. 8. To carry out the provisions of this Act, there are authorized to be appropriated $1,500,000. 50 USC app. 1981 note.

Approved July 31, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1146 accompanying H.R. 5499 (Comm. on the Judiciary).
SENATE REPORT No. 96-751 (Comm. on Governmental Affairs).
CONGRESSIONAL RECORD, Vol. 126 (1980):
May 22, considered and passed Senate.
July 21, H.R. 5499 passed House; passage vacated and S. 1647, amended, passed in lieu.
July 24, Senate concurred in House amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 16, No. 31:
July 31, Presidential statement.

Public Law 96-318
96th Congress

An Act

Aug. 1, 1980
[S. 1466]

To provide for the distribution of certain funds appropriated to pay judgments in favor of the Delaware Tribe of Indians and the absentee Delaware Tribe of Western Oklahoma in Indian Claims Commission dockets 27-A and 241, 289, and 27-B and 338, and for other purposes.

Delaware Tribe of Indians; judgment funds, distribution
25 USC 1401.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding any provision of the Act of October 19, 1973 (87 Stat. 466), or any other law, or any regulation or plan promulgated pursuant thereto, the funds appropriated by the Act of December 15, 1971 (85 Stat. 627) for the award in docket 289; by the Act of March 21, 1972 (86 Stat. 86) for the award in dockets 27-A and 241; by the Act of March 7, 1978 (92 Stat. 107) for the award in dockets 27-B and 338; on October 31, 1978, in accordance with section 1302 of the Act of July 27, 1956 (70 Stat. 694), as amended (31 U.S.C. 724a), for the award in dockets 27-E and 202; and on August 6, 1979, in accordance with section 1302 of such Act of July 27, 1956, for the award in docket 27; including all interest and investment income accrued thereon, less attorney fees and litigation expenses incurred in connection with such awards, shall be used and distributed as provided in this Act.

SEC. 2. The Secretary of the Interior (hereinafter the "Secretary") shall prepare a roll of all persons who were born on or prior to October 3, 1972, and who are living on the date of the enactment of this Act who are citizens of the United States and who are descended from a lineal ancestor whose name appears on the "Registry" filed in the Office of the Commissioner of Indian Affairs pursuant to article 9 of the treaty with the Delaware Indians of July 4, 1866 (14 Stat. 793) or who are descended from a lineal ancestor whose name appears on the "Register" prepared pursuant to the agreement dated April 8, 1867, between the Delaware Tribe of Indians and the Cherokee Nation. No person shall be eligible for enrollment under this section who was paid, or was eligible to be paid, pursuant to the Act of October 3, 1972 (82 Stat. 762).

25 USC 1291.

Separate fund.

SEC. 3. (a) Upon completion of the roll provided for in section 2 of this Act, the Secretary shall segregate and establish a separate fund from the funds described in the first section of this Act. Such separate fund shall be in an amount equal to $1,488.22 multiplied by the number of persons whose names appear on the roll prepared in accordance with section 2 of this Act: *Provided,* That said separate fund shall not in any event exceed the maximum amount of $1,488,220 regardless of the number of such enrollees.

Attorneys' fees.

(b) The Secretary shall pay 10 per centum of the fund established by subsection (a) of this section to the Kansas Delaware Tribe of Indians, Incorporated, and to the Delawares of Idaho, Incorporated, in a ratio proportionate to their respective number of members enrolled under section 2 of this Act, for the sole purpose of enabling such corporations to pay attorneys' fees for the representation of such members in connection with their efforts to achieve participation in the distribution of funds under the Act of October 3, 1972, and in addition thereto,

shall pay to such corporations from the fund established by subsection (a) of this section all expenses in connection therewith which the Secretary finds to be reasonable.

(c) After payments made pursuant to subsection (b) of this section, the Secretary shall distribute the balance of the separate fund established pursuant to subsection (a) of this section on a per capita basis to those who have been enrolled by the Secretary under section 2 of this Act.

SEC. 4. After the establishment of the separate fund prescribed in section 3(a) of this Act, 17 per centum of all of the then remaining funds described in the first section of this Act shall be apportioned by the Secretary to the Delaware Tribe of Western Oklahoma. The Secretary shall prepare a roll of all persons born on or before, and living on, the date of the enactment of this Act who are citizens of the United States and whose names appear on the membership roll of the Delaware Tribe of Western Oklahoma, brought current as of the date of the enactment of this Act. No more than 60 per centum of the funds apportioned to the Delaware Tribe of Western Oklahoma shall be distributed on a per capita basis, in amounts as equal as possible, to all tribal members enrolled in accordance with this section. No less than 40 per centum of said funds, including any amounts remaining from the aforementioned per capita distribution, shall be invested by the Secretary for tribal social and economic programing purposes, including periodic dividend payments: *Provided,* That the voting membership of the tribe may elect to designate more than 40 per centum of the total funds apportioned to the tribe for such programing purposes. Said programing funds, including all interest and investment income accrued, shall be utilized by the tribal governing body on an annual budgetary basis, subject to the approval of the Secretary.

SEC. 5. (a) After the establishment of the fund prescribed in section 3(a) and the apportionment of funds to the Delaware Tribe of Western Oklahoma as prescribed in section 4 of this Act, the remaining balance of the funds described in the first section of this Act shall be divided and distributed per capita, in accordance with the provisions of this section, among all persons whose names appear on a roll prepared by the Secretary, which roll shall include all persons born on or prior to and living on the date of the enactment of this Act who are citizens of the United States and whose names or whose lineal ancestors' names appear on any of the following rolls or records:

(1) the "Registry", filed in the Office of the Commissioner of Indian Affairs pursuant to article 9 of the treaty with the Delaware Indians of July 4, 1866 (14 Stat. 793);

(2) the Delaware (Cherokee Delaware) Indian per capita payroll approved by the Secretary of the Interior on April 20, 1906; or

(3) the "Register" prepared pursuant to the agreement of April 8, 1867, between the Delaware Tribe of Indians and the Cherokee Nation.

(b) The per capita amount determined pursuant to subsection (a) of this section with respect to any person (except a person enrolled pursuant to section 2 of this Act) who was born after October 3, 1972, shall not be less than the amount of per capita payment such person would otherwise receive if no separate fund had been established pursuant to section 3(a) and if the total funds described in the first section of this Act were reduced only by the amount of funds apportioned to the Delaware Tribe of Western Oklahoma pursuant to section 4 of this Act.

(c) The Secretary shall identify those persons who qualify and are enrolled under section 5(a) (1) and (3) of this Act exclusive of those persons who qualify under section 5(a)(2) of this Act. The amount of their individual shares shall be multiplied by the number of such enrollees. The Secretary shall pay 10 per centum of this total amount to the Kansas Delaware Tribe of Indians, Incorporated, and to the Delawares of Idaho, Incorporated, in a ratio proportionate to their respective number of members enrolled under subsection (a) of this section for the sole purpose of the payment of their attorneys' fees in connection with their efforts to achieve participation in the funds set forth in subsection (a) of this section. The Secretary shall distribute the balance of said total amount on a per capita basis to those persons enrolled under section 5(a) (1) and (3) of this Act subject to the requirement of section 5(b) of this Act.

(d) No person shall be entitled to more than one per capita share under subsection (a) of this section, nor shall any person who received a per capita share under section 4 of this Act be eligible to receive any share under this section.

SEC. 6. The per capita shares of living competent adults shall be paid directly to them. Per capita shares of deceased individual beneficiaries shall be determined and distributed pursuant to regulations prescribed by the Secretary. Per capita shares of legal incompetents and per capita shares of persons under age eighteen shall be paid in accordance with such procedures, including the establishment of trusts, as the Secretary determines to be necessary to protect the interests of such persons.

SEC. 7. (a) Except for funds to be held in escrow as provided hereinafter in this section, the Secretary shall pay and distribute all funds, as provided in this Act, forthwith upon completion of the enrollment process to be established by the rules and regulations to be promulgated under section 10 of this Act, which enrollment process period shall not be deemed to include the period of time for action upon enrollment appeals.

Escrow account.

(b) The Secretary, in arranging for the per capita payments under sections 3, 4, and 5 of this Act, shall hold at interest in an escrow account the apportioned shares, including any attorneys fees applicable thereto as provided in sections 3 and 5, of all applicants whose entitlements are the subjects of enrollment appeals, pending determinations of all enrollment appeals.

(c) The aggregate amount of any apportioned shares applicable to unsuccessful applicants for enrollment under section 3 of this Act, including the attorneys fees attributable to such apportioned shares as provided in such section, shall be paid and distributed by the Secretary, 17 per centum to the Delaware Tribe of Western Oklahoma for programing purposes as provided in section 4 of this Act, and the remaining 83 per centum shall be paid and distributed as provided in section 5 of this Act: *Provided*, That per capita payments which would be payable under section 5 of this Act of less than $5 shall be aggregated and paid 19 per centum to the Delaware Tribe of Western Oklahoma and 81 per centum to the Delaware Tribe of Indians, both for programing purposes.

(d) The amount of any apportioned shares applicable to unsuccessful applicants for enrollment who claimed entitlement through membership in the Delaware Tribe of Western Oklahoma shall be added to the programing portion of that tribe's share of these awards.

(e) The amount of any apportioned shares applicable to unsuccessful applicants who claimed entitlement under section 5(a)(2) of this Act shall be added to the programing portion of the Delaware Tribe of

Indians' share of awards provided for in the Act of October 3, 1972 (86 Stat. 762). 25 USC 1291.

(f) The total amount of any apportioned shares applicable to unsuccessful applicants who claimed entitlement through section 5(a)(1) or section 5(a)(3) shall be paid and distributed as provided in section 5(c): *Provided,* That per capita payments which would be payable under section 5(c) of this Act of less than $5 shall be aggregated and paid 19 per centum to the Delaware Tribe of Western Oklahoma and 81 per centum to the Delaware Tribe of Indians, both for the programing purposes of said tribes.

Tax exemption.

SEC. 8. None of the funds distributed per capita or made available for programing purposes under this Act shall be subject to Federal or State income taxes or be considered income or resources in determining eligibility for assistance under Federal, State, or local programs.

SEC. 9. Nothing contained in this Act shall be construed as recognizing the Kansas Delaware Indians, the Kansas Delaware Tribe of Indians, Incorporated, the Idaho Delaware Indians or the Delawares of Idaho, Incorporated, as federally recognized Indian tribes.

Rules and regulations.

SEC. 10. The Secretary is authorized and directed, within sixty days from the date of enactment of this Act, to promulgate rules and regulations to implement this Act, including the establishment of enrollment procedures and a deadline for the filing of enrollment applications on a date not more than one hundred and twenty days after publication of said regulations.

Approved August 1, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1136 (Comm. on Interior and Insular Affairs).
SENATE REPORT No. 96-628 (Comm. on Indian Affairs).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Mar. 18, considered and passed Senate.
July 21, considered and passed House.

Public Law 96-319
96th Congress

An Act

Aug. 1, 1980
[S. 2508]

To provide for the disposition of the Gila River Pima-Maricopa Indian Community judgment funds awarded in dockets 236-A, 236-B, and 236-E before the Indian Claims Commission and the United States Court of Claims, and for other purposes.

Gila River Pima-Maricopa Indian Community; judgment funds, distribution.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding any other provision of law, the funds appropriated on May 4, 1977 (91 Stat. 61), in satisfaction of the judgment granted to the Gila River Pima-Maricopa Indian Community in dockets 236-A and 236-B before the Indian Claims Commission and on April 23, 1979, in docket 236-E before the United States Court of Claims, less attorney fees and litigation expenses, and including all interest and investment income accrued, shall be used and distributed as provided herein.

Investment of funds.

SEC. 2. (a) The Secretary of the Interior shall invest the principal sum of funds in all dockets pursuant to the provisions of the first section of the Act of June 24, 1938 (25 U.S.C. 162a). The interest and investment income accrued shall be immediately available to the Gila River Indian Community upon the approval by the Secretary of the Interior of the community's plan of operation and budget as set forth in Gila River Indian Community Resolution Numbered GR-100-79, adopted August 1, 1979, as follows:

(1) 50 per centum of such interest and income resulting from dockets 236-A and 236-B shall be used as operational costs of the Gila River Indian Community; and

(2) 50 per centum of such interest and income resulting from dockets 236-A and 236-B shall be distributed to the seven community districts, prorated on the basis of current population at the time such distributions are made and shall be used for the general district government operations and programs.

(b) All of the accrued interest and income from docket 236-E shall be used as operational costs of the Gila River Indian Community. After the date of enactment of this Act all interest and investment income accrued from dockets 236-A, 236-B, and 236-E shall be advanced quarterly and utilized as provided in this subsection and paragraphs (1) and (2) of subsection (a) of this section.

SEC. 3. The Gila River Indian Community may utilize portions of the principal funds referred to in section 2 of this Act in connection with programs proposed by the Gila River tribal governing body on a budgetary basis which has been approved by the Secretary of the Interior.

Approved August 1, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1137 accompanying H.R. 7249 (Comm. on Interior and Insular Affairs).
SENATE REPORT No. 96-690 (Comm. on Indian Affairs).
CONGRESSIONAL RECORD, Vol. 126 (1980):
May 15, considered and passed Senate.
July 21, H.R. 7249 considered and passed House; passage vacated and S. 2508 passed in lieu.

Public Law 96-320
96th Congress

An Act

Aug. 3, 1980
[S. 2492]

To regulate commerce, promote energy self-sufficiency, and protect the environment, by establishing procedures for the location, construction, and operation of ocean thermal energy conversion facilities and plantships to produce electricity and energy-intensive products off the coasts of the United States; to amend the Merchant Marine Act, 1936, to make available certain financial assistance for construction and operation of such facilities and plantships; and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Ocean Thermal Energy Conversion Act of 1980".

Ocean Thermal Energy Conversion Act of 1980.
42 USC 9101 note.

SEC. 2. DECLARATION OF POLICY.

42 USC 9101.

(a) It is declared to be the purposes of the Congress in this Act to—

(1) authorize and regulate the construction, location, ownership, and operation of ocean thermal energy conversion facilities connected to the United States by pipeline or cable, or located in the territorial sea of the United States consistent with the Convention on the High Seas, and general principles of international law;

(2) authorize and regulate the construction, location, ownership, and operation of ocean thermal energy conversion plantships documented under the laws of the United States, consistent with the Convention on the High Seas and general principles of international law;

(3) authorize and regulate the construction, location, ownership, and operation of ocean thermal energy conversion plantships by United States citizens, consistent with the Convention on the High Seas and general principles of international law;

(4) establish a legal regime which will permit and encourage the development of ocean thermal energy conversion as a commercial energy technology;

(5) provide for the protection of the marine and coastal environment, and consideration of the interests of ocean users, to prevent or minimize any adverse impact which might occur as a consequence of the development of such ocean thermal energy conversion facilities or plantships;

(6) make applicable certain provisions of the Merchant Marine Act, 1936 (46 U.S.C. 1177 et seq.) to assist in financing of ocean thermal energy conversion facilities and plantships;

(7) protect the interests of the United States in the location, construction, and operation of ocean thermal energy conversion facilities and plantships; and

(8) protect the rights and responsibilities of adjacent coastal States in ensuring that Federal actions are consistent with approved State coastal zone management programs and other applicable State and local laws.

(b) The Congress declares that nothing in this Act shall be construed to affect the legal status of the high seas, the superjacent airspace, or the seabed and subsoil, including the Continental Shelf.

SEC. 3. DEFINITIONS. 42 USC 9102.

As used in this Act, unless the context otherwise requires, the term—

(1) "adjacent coastal State" means any coastal State which is required to be designated as such by section 105(a)(1) of this Act or is designated as such by the Administrator in accordance with section 105(a)(2) of this Act;

(2) "Administrator" means the Administrator of the National Oceanic and Atmospheric Administration;

(3) "antitrust laws" includes the Act of July 2, 1890, as amended, the Act of October 15, 1914, as amended, and sections 73 and 74 of the Act of August 27, 1894, as amended; 15 USC 1, 12, 8, 9.

(4) "application" means any application submitted under this Act (A) for issuance of a license for the ownership, construction, and operation of an ocean thermal energy conversion facility or plantship; (B) for transfer or renewal of any such license; or (C) for any substantial change in any of the conditions and provisions of any such license;

(5) "coastal State" means a State in, or bordering on, the Atlantic, Pacific, or Arctic Ocean, the Gulf of Mexico, Long Island Sound, or one or more of the Great Lakes;

(6) "construction" means any activities conducted at sea to supervise, inspect, actually build, or perform other functions incidental to the building, repairing, or expanding of an ocean thermal energy conversion facility or plantship or any of its components, including but not limited to, piledriving, emplacement of mooring devices, emplacement of cables and pipelines, and deployment of the cold water pipe, and alterations, modifications, or additions to an ocean thermal energy conversion facility or plantship;

(7) "facility" means an ocean thermal energy conversion facility;

(8) "Governor" means the Governor of a State or the person designated by law to exercise the powers granted to the Governor pursuant to this Act;

(9) "high seas" means that part of the oceans lying seaward of the territorial sea of the United States and outside the territorial sea, as recognized by the United States, of any other nation;

(10) "licensee" means the holder of a valid license for the ownership, construction, and operation of an ocean thermal energy conversion facility or plantship that was issued, transferred, or renewed pursuant to this Act;

(11) "ocean thermal energy conversion facility" means any facility which is standing or moored in or beyond the territorial sea of the United States and which is designed to use temperature differences in ocean water to produce electricity or another form of energy capable of being used directly to perform work, and includes any equipment installed on such facility to use such electricity or other form of energy to produce, process, refine, or manufacture a product, and any cable or pipeline used to deliver such electricity, freshwater, or product to shore, and all other associated equipment and appurtenances of such facility, to the extent they are located seaward of the highwater mark;

(12) "ocean thermal energy conversion plantship" means any vessel which is designed to use temperature differences in ocean water while floating unmoored or moving through such water, to produce electricity or another form of energy capable of being used directly to perform work, and includes any equipment

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installed on such vessel to use such electricity or other form of energy to produce, process, refine, or manufacture a product, and any equipment used to transfer such product to other vessels for transportation to users, and all other associated equipment and appurtenances of such vessel;

(13) "plantship" means an ocean thermal energy conversion plantship;

(14) "person" means any individual (whether or not a citizen of the United States), any corporation, partnership, association, or other entity organized or existing under the laws of any nation, and any Federal, State, local or foreign government or any entity of any such government;

(15) "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the United States Virgin Islands, Guam, the Commonwealth of the Northern Marianas, and any other Commonwealth, territory, or possession over which the United States has jurisdiction;

(16) "test platform" means any floating or moored platform, barge, ship, or other vessel which is designed for limited-scale, at sea operation in order to test or evaluate the operation of components or all of an ocean thermal energy conversion system and which will not operate as an ocean thermal energy conversion facility or plantship after the conclusion of such tests or evaluation;

(17) "thermal plume" means the area of the ocean in which a significant difference in temperature, as defined in regulations by the Administrator, occurs as a result of the operation of an ocean thermal energy conversion facility or plantship; and

(18) "United States citizen" means (A) any individual who is a citizen of the United States by law, birth, or naturalization; (B) any Federal, State, or local government in the United States, or any entity of any such government; or (C) any corporation, partnership, association, or other entity, organized or existing under the laws of the United States, or of any State, which has as its president or other executive officer and as its chairman of the board of directors, or holder of similar office, an individual who is a United States citizen and which has no more of its directors who are not United States citizens than constitute a minority of the number required for a quorum necessary to conduct the business of the board.

TITLE I—REGULATION OF OCEAN THERMAL ENERGY CONVERSION FACILITIES AND PLANTSHIPS

42 USC 9111.

SEC. 101. LICENSE FOR THE OWNERSHIP, CONSTRUCTION, AND OPERATION OF AN OCEAN THERMAL ENERGY CONVERSION FACILITY OR PLANTSHIP.

(a) No person may engage in the ownership, construction, or operation of an ocean thermal energy conversion facility which is documented under the laws of the United States, which is located in the territorial sea of the United States, or which is connected to the United States by pipeline or cable, except in accordance with a license issued pursuant to this Act. No citizen of the United States may engage in the ownership, construction or operation of an ocean thermal energy conversion plantship except in accordance with a license issued pursuant to this Act, or in accordance with a license issued by a foreign nation whose licenses are found by the Administ

trator, after consultation with the Secretary of State, to be compatible with licenses issued pursuant to this Act.

(b) The Administrator shall, upon application and in accordance with the provisions of this Act, issue, transfer, amend, or renew licenses for the ownership, construction, and operation of—

(1) ocean thermal energy conversion plantships documented under the laws of the United States, and

(2) ocean thermal energy conversion facilities documented under the laws of the United States, located in the territorial sea of the United States, or connected to the United States by pipeline or cable.

License issuance, prerequisites.

(c) The Administrator may issue a license to a citizen of the United States in accordance with the provisions of this Act unless—

(1) he determines that the applicant cannot and will not comply with applicable laws, regulations, and license conditions;

(2) he determines that the construction and operation of the ocean thermal energy conversion facility or plantship will not be in the national interest and consistent with national security and other national policy goals and objectives, including energy self-sufficiency and environmental quality;

(3) he determines, after consultation with the Secretary of the department in which the Coast Guard is operating, that the ocean thermal energy conversion facility or plantship will not be operated with reasonable regard to the freedom of navigation or other reasonable uses of the high seas and authorized uses of the Continental Shelf, as defined by United States law, treaty, convention, or customary international law;

(4) he has been informed, within 45 days after the conclusion of public hearings on that application, or on proposed licenses for the designated application area, by the Administrator of the Environmental Protection Agency that the ocean thermal energy conversion facility or plantship will not conform with all applicable provisions of any law for which he has enforcement authority;

(5) he has received the opinion of the Attorney General, pursuant to section 104 of this Act, stating that issuance of the license would create a situation in violation of the antitrust laws, or the 90-day period provided in section 104 has expired;

(6) he has consulted with the Secretary of Energy, the Secretary of Transportation, the Secretary of State, the Secretary of the Interior, and the Secretary of Defense, to determine their views on the adequacy of the application, and its effect on programs within their respective jurisdictions and determines on the basis thereof, that the application for license is inadequate;

(7) the proposed ocean thermal energy conversion facility or plantship will not be documented under the laws of the United States;

(8) the applicant has not agreed to the condition that no vessel may be used for the transportation to the United States of things produced, processed, refined, or manufactured at the ocean thermal energy conversion facility or plantship unless such vessel is documented under the laws of the United States;

(9) when the license is for an ocean thermal energy conversion facility, he determines that the facility, including any submarine electric transmission cables and equipment or pipelines which are components of the facility, will not be located and designed so as to minimize interference with other uses of the high seas or

the Continental Shelf, including cables or pipelines already in position on or in the seabed and the possibility of their repair;

(10) the Governor of each adjacent coastal State with an approved coastal zone management program in good standing pursuant to the Coastal Zone Management Act of 1972 (33 U.S.C. 1451 et seq.) determines that, in his or her view, the application is inadequate or inconsistent with respect to programs within his or her jurisdiction;

16 USC 1451 *et seq.*

(11) when the license is for an ocean thermal energy conversion facility, he determines that the thermal plume of the facility is expected to impinge on so as to degrade the thermal gradient used by any other ocean thermal energy conversion facility already licensed or operating, without the consent of its owner;

(12) when the license is for an ocean thermal energy conversion facility, he determines that the thermal plume of the facility is expected to impinge on so as to adversely affect the territorial sea or area of national resource jurisdiction, as recognized by the United States, of any other nation, unless the Secretary of State approves such impingement after consultation with such nation;

(13) when the license is for an ocean thermal energy conversion plantship, he determines that the applicant has not provided adequate assurance that the plantship will be operated in such a way as to prevent its thermal plume from impinging on so as to degrade the thermal gradient used by any other ocean thermal energy conversion facility or plantship without the consent of its owner, and from impinging on so as to adversely affect the territorial sea or area of national resource jurisdiction, as recognized by the United States, of any other nation unless the Secretary of State approves such impingement after consultation with such nation; and

(14) when a regulation has been adopted which places an upper limit on the number or total capacity of ocean thermal energy conversion facilities or plantships to be licensed under this Act for simultaneous operation, either overall or within specific geographic areas, pursuant to a determination under the provisions of section 107(b)(4) of this Act, issuance of the license will cause such upper limit to be exceeded.

Issuance conditions.

(d)(1) In issuing a license for the ownership, construction, and operation of an ocean thermal energy conversion facility or plantship, the Administrator shall prescribe conditions which he deems necessary to carry out the provisions of this Act, or which are otherwise required by any Federal department or agency pursuant to the terms of this Act.

Written agreement of compliance.

(2) No license shall be issued, transferred, or renewed under this Act unless the licensee or transferee first agrees in writing that (A) there will be no substantial change from the plans, operational systems, and methods, procedures, and safeguards set forth in his application, as approved, without prior approval in writing from the Administrator, and (B) he will comply with conditions the Administrator may prescribe in accordance with the provisions of this Act.

Disposal or removal requirements.

(3) The Administrator shall establish such bonding requirements or other assurances as he deems necessary to assure that, upon the revocation, termination, relinquishment, or surrender of a license, the licensee will dispose of or remove all components of the ocean thermal energy conversion facility or plantship as directed by the Administrator. In the case of components which another applicant or licensee desires to use, the Administrator may waive the disposal or removal requirements until he has reached a decision on the applica-

Waiver.

tion. In the case of components lying on or below the seabed, the Administrator may waive the disposal or removal requirements if he finds that such removal is not otherwise necessary and that the remaining components do not constitute any threat to the environment, navigation, fishing, or other uses of the seabed.

(e) Upon application, a license issued under this Act may be transferred if the Administrator determines that such transfer is in the public interest and that the transferee meets the requirements of this Act and the prerequisites to issuance under subsection (c) of this section. License transfer.

(f) Any United States citizen who otherwise qualifies under the terms of this Act shall be eligible to be issued a license for the ownership, construction, and operation of an ocean thermal energy conversion facility or plantship.

(g) Licenses issued under this Act shall be for a term of not to exceed 25 years. Each licensee shall have a preferential right to renew his license subject to the requirements of subsection (c) of this section, upon such conditions and for such term, not to exceed an additional 10 years upon each renewal, as the Administrator determines to be reasonable and appropriate. License term and renewal.

42 USC. 9112.

SEC. 102. PROCEDURE.

(a) The Administrator shall, after consultation with the Secretary of Energy and the heads of other Federal agencies, issue regulations to carry out the purposes and provisions of this Act, in accordance with the provisions of section 553 of title 5, United States Code, without regard to subsection (a) thereof. Such regulations shall pertain to, but need not be limited to, application for issuance, transfer, renewal, suspension, and termination of licenses. Such regulations shall provide for full consultation and cooperation with all other interested Federal agencies and departments and with any potentially affected coastal State, and for consideration of the views of any interested members of the general public. The Administrator is further authorized, consistent with the purposes and provisions of this Act, to amend or rescind any such regulation. The Administrator shall complete issuance of final regulations to implement this Act within 1 year of the date of its enactment. Regulations.

(b) The Administrator, in consultation with the Secretary of the Interior and the Secretary of the department in which the Coast Guard is operating may, if he determines it to be necessary, prescribe regulations consistent with the purposes of this Act, relating to those activities in site evaluation and preconstruction testing at potential ocean thermal energy conversion facility or plantship locations that may (1) adversely affect the environment; (2) interfere with other reasonable uses of the high seas or with authorized uses of the Outer Continental Shelf; or (3) pose a threat to human health and safety. If the Administrator prescribes regulations relating to such activities, such activities may not be undertaken after the effective date of such regulations except in accordance therewith. Consultation.

(c) Not later than 60 days after the date of enactment of this Act, the Secretary of Energy, the Administrator of the Environmental Protection Agency, the Secretary of the department in which the Coast Guard is operating, the Secretary of the Interior, the Chief of Engineers of the United States Army Corps of Engineers, and the heads of any other Federal departments or agencies having expertise concerning, or jurisdiction over, any aspect of the construction or operation of ocean thermal energy conversion facilities or plantships, shall transmit to the Administrator written description of their Expertise or statutory responsibility descriptions.

expertise or statutory responsibilities pursuant to this Act or any other Federal law.

Application receipt and notice.

(d)(1) Within 21 days after the receipt of an application, the Administrator shall determine whether the application appears to contain all of the information required by paragraph (2) of this subsection. If the Administrator determines that such information appears to be contained in the application, the Administrator shall, no later than 5 days after making such a determination, publish notice of the application and a summary of the plans in the Federal Register. If the Administrator determines that all of the required information does not appear to be contained in the application, the Administrator shall notify the applicant and take no further action with respect to the application until such deficiencies have been remedied.

Publication in Federal Register.

(2) Each application shall include such financial, technical, and other information as the Administrator determines by regulation to be necessary or appropriate to process the license pursuant to section 101.

Area description, publication in Federal Register.

(e)(1) At the time notice of an application for an ocean thermal energy conversion facility is published pursuant to subsection (d) of this section, the Administrator shall publish a description in the Federal Register of an application area encompassing the site proposed in the application for such facility and within which the thermal plume of one ocean thermal energy conversion facility might be expected to impinge on so as to degrade the thermal gradient used by another ocean thermal energy conversion facility, unless the application is for a license for an ocean thermal energy conversion facility to be located within an application area which has already been designated.

Additional license applications.

(2) The Administrator shall accompany such publication with a call for submission of any other applications for licenses for the ownership, construction, and operation of an ocean thermal energy conversion facility within the designated application area. Any person intending to file such an application shall submit a notice of intent to file an application to the Administrator not later than 60 days after the publication of notice pursuant to subsection (d) of this section, and shall submit the completed application no later than 90 days after publication of such notice. The Administrator shall publish notice of any such application received in accordance with subsection (d) of this section. No application for a license for the ownership, construction, and operation of an ocean thermal energy conversion facility within the designated application area for which a notice of intent to file was received after such 60-day period, or which is received after such 90-day period has elapsed, shall be considered until action has been completed on all timely filed applications pending with respect to such application area.

(f) An application filed with the Administrator shall constitute an application for all Federal authorizations required for ownership, construction, and operation of an ocean thermal energy conversion facility or plantship, except for authorizations required by documentation, inspection, certification, construction, and manning laws and regulations administered by the Secretary of the department in which the Coast Guard is operating. At the time notice of any application is published pursuant to subsection (d) of this section, the Administrator shall forward a copy of such application to those Federal agencies and departments with jurisdiction over any aspect of such ownership, construction, or operation for comment, review, or recommendation as to conditions and for such other action as may be

Application copies.

required by law. Each agency or department involved shall review the application and, based upon legal considerations within its area of responsibility, recommend to the Administrator the approval or disapproval of the application not later than 45 days after public hearings are concluded pursuant to subsection (g) of this section. In any case in which an agency or department recommends disapproval, it shall set forth in detail the manner in which the application does not comply with any law or regulation within its area of responsibility and shall notify the Administrator of the manner in which the application may be amended or the license conditioned so as to bring it into compliance with the law or regulation involved.

Application review.

(g) A license may be issued, transferred, or renewed only after public notice, opportunity for comment, and public hearings in accordance with this subsection. At least one such public hearing shall be held in the District of Columbia and in any adjacent coastal State to which a facility is proposed to be directly connected by pipeline or electric transmission cable. Any interested person may present relevant material at any such hearing. After the hearings required by this subsection are concluded, if the Administrator determines that there exist one or more specific and material factual issues which may be resolved by a formal evidentiary hearing, at least one adjudicatory hearing shall be held in the District of Columbia in accordance with the provisions of section 554 of title 5, United States Code. The record developed in any such adjudicatory hearing shall be part of the basis for the Administrator's decision to approve or deny a license. Hearings held pursuant to this subsection shall be consolidated insofar as practicable with hearings held by other agencies. All public hearings on all applications with respect to facilities for any designated application area shall be consolidated and shall be concluded not later than 240 days after notice of the initial application has been published pursuant to subsection (d) of this section. All public hearings on applications with respect to ocean thermal energy conversion plantships shall be concluded not later than 240 days after notice of the application has been published pursuant to subsection (d) of this section.

Notice, comments, and hearings.

Record.

Consolidation of hearings.

(h) Each person applying for a license pursuant to this Act shall remit to the Administrator at the time the application is filed a nonrefundable application fee, which shall be deposited into miscellaneous receipts of the Treasury. The amount of the fee shall be established by regulation by the Administrator, and shall reflect the reasonable administrative costs incurred in reviewing and processing the application.

Application fee.

(i)(1) The Administrator shall approve or deny any timely filed application with respect to a facility for a designated application area submitted in accordance with the provision of this Act not later than 90 days after public hearings on proposed licenses for that area are concluded pursuant to subsection (g) of this section. The Administrator shall approve or deny an application for a license for ownership, construction, and operation of an ocean thermal energy conversion plantship submitted pursuant to this Act no later than 90 days after the public hearings on that application are concluded pursuant to subsection (g) of this section.

Application approval or denial.

(2) In the event more than one application for a license for ownership, construction, and operation of an ocean thermal energy conversion facility is submitted pursuant to this Act for the same designated application area, the Administrator, unless one or a specific combination of the proposed facilities clearly best serves the

Applications for same area.

national interest, shall make decisions on license applications in the order in which they were submitted to him.

Facility selection, determination factors.

(3) In determining whether any one or a specific combination of the proposed ocean thermal energy conversion facilities clearly best serves the national interest, the Administrator, in consultation with the Secretary of Energy, shall consider the following factors:

(A) the goal of making the greatest possible use of ocean thermal energy conversion by installing the largest capacity practicable in each application area;

(B) the amount of net energy impact of each of the proposed ocean thermal energy conversion facilities;

(C) the degree to which the proposed ocean thermal energy conversion facilities will affect the environment;

(D) any significant differences between anticipated dates and commencement of operation of the proposed ocean thermal energy conversion facilities; and

(E) any differences in costs of construction and operation of the proposed ocean thermal energy conversion facilities, to the extent that such differentials may significantly affect the ultimate cost of energy or products to the consumer.

42 USC 9113.

SEC. 103. PROTECTION OF SUBMARINE ELECTRIC TRANSMISSION CABLES AND EQUIPMENT.

Penalties and fines.

(a) Any person who shall willfully and wrongfully break or injure, or attempt to break or injure, or who shall in any manner procure, counsel, aid, abet, or be accessory to such breaking or injury, or attempt to break or injure, any submarine electric transmission cable or equipment being constructed or operated under a license issued pursuant to this Act shall be guilty of a misdemeanor and, on conviction thereof, shall be liable to imprisonment for a term not exceeding 2 years, or to a fine not exceeding $5,000, or to both fine and imprisonment, at the discretion of the court.

(b) Any person who by culpable negligence shall break or injure any submarine electric transmission cable or equipment being constructed or operated under a license issued pursuant to this Act shall be guilty of a misdemeanor and, on conviction thereof, shall be liable to imprisonment for a term not exceeding 3 months, or to a fine not exceeding $500, or to both fine and imprisonment, at the discretion of the court.

(c) The provisions of subsections (a) and (b) of this section shall not apply to any person who, after having taken all necessary precautions to avoid such breaking or injury, breaks or injures any submarine electric transmission cable or equipment in an effort to save the life or limb of himself or of any other person, or to save his own or any other vessel.

Suit for damages.

(d) The penalties provided in subsections (a) and (b) of this section for the breaking or injury of any submarine electric transmission cable or equipment shall not be a bar to a suit for damages on account of such breaking or injury.

Indemnity.

(e) Whenever any vessel sacrifices any anchor, fishing net, or other fishing gear to avoid injuring any submarine electric transmission cable or equipment being constructed or operated under a license issued pursuant to this Act, the licensee shall indemnify the owner of such vessel for the items sacrificed: *Provided,* That the owner of the vessel had taken all reasonable precautionary measures beforehand.

Repair cost.

(f) Any licensee who causes any break in or injury to any submarine cable or pipeline of any type shall bear the cost of the repairs.

SEC. 104. ANTITRUST REVIEW.

42 USC 9114.

(a) Whenever any application for issuance, transfer, or renewal of any license is received, the Administrator shall transmit promptly to the Attorney General a complete copy of such application. Within 90 days of the receipt of the application, the Attorney General shall conduct such antitrust review of the application as he deems appropriate, and submit to the Administrator any advice or recommendations he deems advisable to avoid any action upon such application by the Administrator which would create a situation inconsistent with the antitrust laws. If the Attorney General fails to file such views within the 90-day period, the Administrator shall proceed as if such views had been received. The Administrator shall not issue, transfer, or renew the license during the 90-day period, except upon written confirmation by the Attorney General that he does not intend to submit any further advice or recommendation on the application during such period.

Application copy, transmittal to Attorney General.

(b) The issuance of a license under this Act shall not be admissible in any way as a defense to any civil or criminal action for violation of the antitrust laws of the United States, nor shall it in any way modify or abridge any private right of action under such laws. Nothing in this section shall be construed to bar the Attorney General or the Federal Trade Commission from challenging any anticompetitive situation involved in the ownership, construction, or operation of an ocean thermal energy conversion facility or plantship.

SEC. 105. ADJACENT COASTAL STATES.

42 USC 9115.

(a)(1) The Administrator, in issuing notice of application pursuant to section 102(d) of this title, shall designate as an "adjacent coastal State" any coastal State which (A) would be directly connected by electric transmission cable or pipeline to an ocean thermal energy conversion facility as proposed in an application, or (B) in whose waters any part of such proposed ocean thermal energy conversion facility would be located, or (C) in whose waters an ocean thermal energy conversion plantship would be operated as proposed in an application.

(2) The Administrator shall, upon request of a State, designate such State as an "adjacent coastal State" if he determines that (A) there is a risk of damage to the coastal environment of such State equal to or greater than the risk posed to a State required to be designated as an "adjacent coastal State" by paragraph (1) of this subsection or (B) that the thermal plume of the proposed ocean thermal energy conversion facility or plantship is likely to impinge on so as to degrade the thermal gradient at possible locations for ocean thermal energy conversion facilities which could reasonably be expected to be directly connected by electric transmission cable or pipeline to such State. This paragraph shall apply only with respect to requests made by a State not later than the 14th day after the date of publication of notice of application for a proposed ocean thermal energy conversion facility in the Federal Register in accordance with section 102(d) of this title. The Administrator shall make any designation required by this paragraph not later than the 45th day after the date he receives such a request from a State.

(b)(1) Not later than 5 days after the designation of adjacent coastal State pursuant to this section, the Administrator shall transmit a complete copy of the application to the Governor of such State. The Administrator shall not issue a license without consultation with the Governor of each adjacent coastal State which has an approved coastal zone management program in good standing pursuant to the

Application copy, transmittal to State Governor.

Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.). If the Governor of such a State has not transmitted his approval or disapproval to the Administrator by the 45th day after public hearings on the application is concluded pursuant to section 102(g) of this title, such approval shall be conclusively presumed. If the Governor of such a State notifies the Administrator that an application which the Governor would otherwise approve pursuant to this paragraph is inconsistent in some respect with the State's coastal zone management program, the Administrator shall condition the license granted so as to make it consistent with such State program.

(2) Any adjacent coastal State which does not have an approved coastal zone management program in good standing, and any other interested State, shall have the opportunity to make its views known to, and to have them given full consideration by, the Administrator regarding the location, construction, and operation of an ocean thermal energy conversion facility or plantship.

Agreement or compact between States.

(c) The consent of Congress is given to 2 or more States to negotiate and enter into agreements or compacts, not in conflict with any law or treaty of the United States, (1) to apply for a license for the ownership, construction, and operation of an ocean thermal energy conversion facility or plantship or for the transfer of such a license, and (2) to establish such agencies, joint or otherwise, as are deemed necessary or appropriate for implementing and carrying out the provisions of any such agreement or compact. Such agreement or compact shall be binding and obligatory upon any State or other party thereto without further approval by the Congress.

42 USC 9116.

SEC. 106. DILIGENCE REQUIREMENTS.

Regulations.

(a) The Administrator shall promulgate regulations requiring each licensee to pursue diligently the construction and operation of the ocean thermal energy conversion facility or plantship to which the license applies.

License termination.

(b) If the Administrator determines that a licensee is not pursuing diligently the construction and operation of the ocean thermal energy conversion facility or plantship to which the license applies, or that the project has apparently been abandoned, the Administrator shall cause proceedings to be instituted under section 111 of this title to terminate the license.

42 USC 9117.

SEC. 107. PROTECTION OF THE ENVIRONMENT.

Environmental assessment program.

(a) The Administrator shall initiate a program to assess the effects on the environment of ocean thermal energy conversion facilities and plantships. The program shall include baseline studies of locations where ocean thermal energy conversion facilities or plantships are likely to be sited or operated; and research; and monitoring of the effects of ocean thermal energy conversion facilities and plantships in actual operation. The purpose of the program shall be to assess the environmental effects of individual ocean thermal energy facilities and plantships, and to assess the magnitude of any cumulative environmental effects of large numbers of ocean thermal energy facilities and plantships.

(b) The program shall be designed to determine, among other things—

(1) any short-term and long-term effects on the environment which may occur as a result of the operation of ocean thermal energy conversion facilities and plantships;

(2) the nature and magnitude of any oceanographic, atmospheric, weather, climatic, or biological changes in the environ

ment which may occur as a result of deployment and operation of large numbers of ocean thermal energy conversion facilities and plantships;

(3) the nature and magnitude of any oceanographic, biological or other changes in the environment which may occur as a result of the operation of electric transmission cables and equipment located in the water column or on or in the seabed, including the hazards of accidentally severed transmission cables; and

(4) whether the magnitude of one or more of the cumulative environmental effects of deployment and operation of large numbers of ocean thermal energy conversion facilities and plantships requires that an upper limit be placed on the number or total capacity of such facilities or plantships to be licensed under this Act for simultaneous operation, either overall or within specific geographic areas.

Plan submittal to Congress.

(c) Within 180 days after enactment of this Act, the Administrator shall prepare a plan to carry out the program described in subsections (a) and (b) of this section, including necessary funding levels for the next 5 fiscal years, and submit the plan to the Congress.

(d) The program established by subsections (a) and (b) of this section shall be reduced to the minimum necessary to perform baseline studies and to analyze monitoring data, when the Administrator determines that the program has resulted in sufficient knowledge to make the determinations enumerated in subsection (b) of this section with an acceptable level of confidence.

(e) The issuance of any license for ownership, construction, and operation of an ocean thermal energy conversion facility or plantship shall be deemed to be a major Federal action significantly affecting the quality of the human environment for purposes of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)). For all timely applications covering proposed facilities in a single application area, and for each application relating to a proposed plantship, the Administrator shall, pursuant to such section 102(2)(C) and in cooperation with other involved Federal agencies and departments, prepare a single environmental impact statement, which shall fulfill the requirement of all Federal agencies in carrying out their responsibilities pursuant to this Act to prepare an environmental impact statement. Each such draft environmental impact statement relating to proposed facilities shall be prepared and published within 180 days after notice of the initial application has been published pursuant to section 102(d) of this title. Each such draft environmental impact statement relating to a proposed plantship shall be prepared and published within 180 days after notice of the application has been published pursuant to section 102(d) of this title. Each final environmental impact statement shall be published not later than 90 days following the date on which public hearings are concluded pursuant to section 102(g) of this title. The Administrator may extend the deadline for publication of a specific draft or final environmental impact statement to a later specified time for good cause shown in writing.

Environmental impact statement.

Ante, p. 979.

Hearings.

Vessel or floating craft.

(f) An ocean thermal energy conversion facility or plantship licensed under this title shall be deemed not to be a "vessel or other floating craft" for the purposes of section 502(12)(B) of the Federal Water Pollution Control Act of 1972 (33 U.S.C. 1362(12)(B)).

42 USC 9118.

SEC. 108. MARINE ENVIRONMENTAL PROTECTION AND SAFETY OF LIFE AND PROPERTY AT SEA.

(a) The Secretary of the department in which the Coast Guard is operating shall, subject to recognized principles of international law, prescribe by regulation and enforce procedures with respect to any ocean thermal energy conversion facility or plantship licensed under this Act, including, but not limited to, rules governing vessel movement, procedures for transfer of materials between such a facility or plantship and transport vessels, designation and marking of anchorage areas, maintenance, law enforcement, and the equipment, training, and maintenance required (1) to promote the safety of life and property at sea, (2) to prevent pollution of the marine environment, (3) to clean up any pollutants which may be discharged, and (4) to otherwise prevent or minimize any adverse impact from the construction and operation of such ocean thermal energy conversion facility or plantship.

Regulations.

(b) The Secretary of the department in which the Coast Guard is operating shall issue and enforce regulations, subject to recognized principles of international law, with respect to lights and other warning devices, safety equipment, and other matters relating to the promotion of safety of life and property on any ocean thermal energy conversion facility or plantship licensed under this Act.

(c) Whenever a licensee fails to mark any component of such an ocean thermal energy conversion facility or plantship in accordance with applicable regulations, the Secretary of the department in which the Coast Guard is operating shall mark such components for the protection of navigation, and the licensee shall pay the cost of such marking.

Safety zone.

(d)(1) Subject to recognized principles of international law and after consultation with the Secretary of Commerce, the Secretary of the Interior, the Secretary of State, and the Secretary of Defense, the Secretary of the department in which the Coast Guard is operating shall designate a zone of appropriate size around and including any ocean thermal energy conversion facility licensed under this Act and may designate such a zone around and including any ocean thermal energy conversion plantship licensed under this Act for the purposes of reorganizational safety and protection of the facility or plantship. The Secretary of the department in which the Coast Guard is operating shall by regulation define permitted activities within such zone consistent with the purpose for which it was designated. The Secretary of the department in which the Coast Guard is operating shall, not later than 30 days after publication of notice pursuant to section 102(d) of this title, designate such safety zone with respect to any proposed ocean thermal energy conversion facility or plantship.

Rules and regulations.

(2) In addition to any other regulations, the Secretary of the department in which the Coast Guard is operating is authorized, in accordance with this subsection, to establish a safety zone to be effective during the period of construction of an ocean thermal energy conversion facility or plantship licensed under this Act, and to issue rules and regulations relating thereto.

Regulations, enforcement and compliance.

(e)(1) The Secretary of the department in which the Coast Guard is operating shall promulgate and enforce regulations specified in paragraph (2) of this subsection and such other regulations as he deems necessary concerning the documentation, design, construction, alteration, equipment, maintenance, repair, inspection, certification, and manning of ocean thermal energy conversion facilities and plantships. In addition to other requirements prescribed under those regulations, the Secretary of the department in which the Coast

Guard is operating may require compliance with those vessel documentation, inspection, and manning laws which he determines to be appropriate.

(2) Within 1 year after the date of enactment of this Act, the Secretary of the department in which the Coast Guard is operating shall promulgate regulations under paragraph (1) of this subsection which require that any ocean thermal energy conversion facility or plantship— Facility or plantship requirements. Regulations.

(A) be documented;

(B) comply with minimum standards of design, construction, alteration, and repair; and

(C) be manned or crewed by United States citizens or aliens lawfully admitted to the United States for permanent residence, unless—

(i) there is not a sufficient number of United States citizens, or aliens lawfully admitted to the United States for permanent residence, qualified and available for such work, or

(ii) the President makes a specific finding, with respect to the particular vessel, platform, or moored or standing structure, that application of this requirement would not be consistent with the national interest.

(3) For the purposes of the documentation laws, for which compliance is required under paragraph (1) of this subsection, ocean thermal energy conversion facilities and plantships shall be deemed to be vessels and, if documented, vessels of the United States for the purposes of the Ship Mortgage Act, 1920 (46 U.S.C. 911-984).

(f) Subject to recognized principles of international law, the Secretary of the department in which the Coast Guard is operating shall promulgate and enforce such regulations as he deems necessary to protect navigation in the vicinity of a vessel engaged in the installation, repair, or maintenance of any submarine electric transmission cable or equipment, and to govern the markings and signals used by such a vessel.

SEC. 109. PREVENTION OF INTERFERENCE WITH OTHER USES OF THE HIGH SEAS. 42 USC 9119.

(a) Each license shall include such conditions as may be necessary and appropriate to ensure that construction and operation of the ocean thermal energy conversion facility or plantship are conducted with reasonable regard for navigation, fishing, energy production, scientific research, or other uses of the high seas, either by citizens of the United States or by other nations in their exercise of the freedoms of the high seas as recognized under the Convention of the High Seas and the general principles of international law.

(b) The Administrator shall promulgate regulations specifying under what conditions and in what circumstances the thermal plume of an ocean thermal energy conversion facility or plantship licensed under this Act will be deemed— Regulations.

(1) to impinge on so as to degrade the thermal gradient used by another ocean thermal energy conversion facility or plantship, or

(2) to impinge on so as to adversely affect the territorial sea or area of natural resource jurisdiction, as recognized by the United States, of any other nation.

Such regulations shall also provide for the Administrator to mediate or arbitrate any disputes among licensees regarding the extent to which the thermal plume of one licensee's facility or plantship impinges on the operation of another licensee's facility or plantship.

(3) Except in a situation involving force majeure, a licensee of an ocean thermal energy conversion facility or plantship shall not permit a vessel, registered in or flying the flag of a foreign state, to call at, load or unload cargo at, or otherwise utilize such a facility or plantship licensed under this Act unless (A) the foreign state involved has agreed, by specific agreement with the United States, to recognize the jurisdiction of the United States over the vessel and its personnel, in accordance with the provisions of this Act, while the vessel is located within the safety zone, and (B) the vessel owner or operator has designated an agent in the United States for receipt of service of process in the event of any claim or legal proceeding resulting from activities of the vessel or its personnel while located within such a safety zone.

Regulations, enforcement.

(c) The Secretary of the department in which the Coast Guard is operating shall promulgate, after consultation with the Administrator, and shall enforce, regulations governing the movement and navigation of ocean thermal energy conversion plantships licensed under this Act to ensure that the thermal plume of such an ocean thermal energy conversion plantship does not unreasonably impinge on so as to degrade the thermal gradient used by the operation of any other ocean thermal energy conversion plantship or facility except in case of force majeure or with the consent of owner of the other such plantship or facility, and to ensure that the thermal plume such of an ocean thermal energy conversion plantship does not impinge on so as to adversely affect the territorial sea or area of national resource jurisdiction, as recognized by the United States, of any other nation unless the Secretary of State has approved such impingment after consultation with such nation.

42 USC 9120.

SEC. 110. MONITORING OF LICENSEES' ACTIVITIES.

Each license shall require the licensee—

(1) to allow the Administrator to place appropriate Federal officers or employees aboard the ocean thermal energy conversion facility or plantship to which the license applies, at such times and to such extent as the Administrator deems reasonable and necessary to assess compliance with any condition or regulation applicable to the license, and to report to the Administrator whenever such officers or employees have reason to believe there is a failure to comply;

(2) to cooperate with such officers and employees in the performance of monitoring functions; and

(3) to monitor the environmental effects, if any, of the operation of the ocean thermal energy conversion facility or plantship in accordance with regulations issued by the Administrator, and to submit such information as the Administrator finds to be necessary and appropriate to assess environmental impacts and to develop and evaluate mitigation methods and possibilities.

42 USC 9121.

SEC. 111. SUSPENSION, REVOCATION, OR TERMINATION OF LICENSE.

(a) Whenever a licensee fails to comply with any applicable provision of this Act or any applicable rule, regulation, restriction, or condition issued or imposed by the Administrator under the authority of this Act, the Attorney General, at the request of the Administrator, shall file an action in the appropriate United States district court to—

(1) suspend the license; or

(2) if such failure is knowing and continues for a period of 30 days after the Administrator mails notification of such failure by registered letter to the licensee at his record post office address, revoke such license.

No proceeding under this section is necessary if the license, by its terms, provides for automatic suspension or termination upon the occurrence of a fixed or agreed upon condition, event, or time.

(b) If the Administrator determines that immediate suspension of the construction or operation of an ocean thermal energy conversion facility or plantship or any component thereof is necessary to protect public health and safety or to eliminate imminent and substantial danger to the environment established by any treaty or convention, the Administrator may order the licensee to cease or alter such construction or operation pending the completion of a judicial proceeding pursuant to subsection (a) of this section.

SEC. 112. RECORDKEEPING AND PUBLIC ACCESS TO INFORMATION. 42 USC 9122.

(a) Each licensee shall establish and maintain such records, make such reports, and provide such information as the Administrator, after consultation with other interested Federal departments and agencies, shall by regulation prescribe to carry out the provisions of this Act. Each licensee shall submit such reports and shall make available such records and information as the Administrator may request. Reports.

(b) Any information reported to or collected by the Administrator under this Act which is exempt from disclosure pursuant to section 552(b)(4) of title 5, United States Code (relating to trade secrets and confidential commercial and financial information), shall not— Confidential information.

(1) be publicly disclosed by the Administrator or by any other officer or employee of the United States, unless the Administrator has—

(A) determined that the disclosure is necessary to protect the public health or safety or the environment against an unreasonable risk of injury, and

(B) notified the person who submitted the information 10 days before the disclosure is to be made, unless the delay resulting from such notice would be detrimental to the public health or safety or the environment, or

(2) be otherwise disclosed except—

(A)(i) to other Federal and adjacent coastal State government departments and agencies for official use,

(ii) to any committee of the Congress of appropriate jurisdiction, or

(iii) pursuant to court order, and

(B) when the administrator has taken appropriate steps to inform the recipient of the confidential nature of the information.

SEC. 113. RELINQUISHMENT OR SURRENDER OF LICENSE. 42 USC 9123.

(a) Any licensee may at any time, without penalty, surrender to the Administrator a license issued to him, or relinquish to the Administrator, in whole or in part, any right to conduct construction or operation of an ocean thermal energy conversion facility or plantship, including part or all of any right of way which may have been granted in conjunction with such license: *Provided,* That such surrender or relinquishment shall not relieve the licensee of any obligation or liability established by this or any other Act, or of any obligation or liability for actions taken by him prior to such surrender or relin- Liability.

quishment, or during disposal or removal of any components required to be disposed of or removed pursuant to this Act.

Right of way.

(b) If part or all of a right of way which is relinquished, or for which the license is surrendered, to the Administrator pursuant to subsection (a) of this section contains an electric transmission cable or pipeline which is used in conjunction with another license for an ocean thermal energy conversion facility, the Administrator shall allow the other licensee an opportunity to add such right of way to his license before informing the Secretary of the Interior that the right of way has been vacated.

42 USC 9124.

SEC. 114. CIVIL ACTIONS.

(a) Except as provided in subsection (b) of this section, any person having a valid legal interest which is or may be adversely affected may commence a civil action for equitable relief on his own behalf in the United States District Court for the District of Columbia whenever such action constitutes a case or controversy—

(1) against any person who is alleged to be in violation of any provision of this Act or any regulation or condition of a license issued pursuant to this Act; or

(2) against the Administrator where there is alleged a failure of the Administrator to perform any act or duty under this Act which is not discretionary.

Suits.

In suits brought under this Act, the district courts of the United States shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce any provision of this Act or any regulation or term or condition of a license issued pursuant to this Act, or to order the Administrator to perform such act or duty, as the case may be.

(b) No civil action may be commenced—

(1) under subsection (a)(1) of this section—

(A) prior to 60 days after the plaintiff has given notice of the violation to the Administrator and to any alleged violator; or

(B) if the Administrator or the Attorney General has commenced and is diligently prosecuting a civil or criminal action with respect to such matters in a court of the United States, but in any such action any person may intervene as a matter of right; or

(2) under subsection (a)(2) of this section prior to 60 days after the plaintiff has given notice of such action to the Administrator.

Notice.

Notice under this subsection shall be given in such a manner as the Administrator shall prescribe by regulation.

(c) In any action under this section, the Administrator or the Attorney General, if not a party, may intervene as a matter of right.

Litigation costs.

(d) The court, in issuing any final order in any action brought pursuant to subsection (a) of this section, may award costs of litigation (including reasonable attorney and expert witness fees) to any party whenever the court determines that such an award is appropriate.

(e) Nothing in this section shall restrict any right which any person or class of persons may have under any statute or common law to seek enforcement or to seek any other relief.

42 USC 9125.

SEC. 115. JUDICIAL REVIEW.

Any person suffering legal wrong, or who is adversely affected or aggrieved by the Administrator's decision to issue, transfer, modify, renew, suspend, or terminate a license may, not later than 60 days

after such decision is made, seek judicial review of such decision in the United States Court of Appeals for the District of Columbia. A person shall be deemed to be aggrieved by the Administrator's decision within the meaning of this Act if he—

(1) has participated in the administrative proceedings before the Administrator (or if he did not so participate, he can show that his failure to do so was caused by the Administrator's failure to provide the required notice); and

(2) is adversely affected by the Administrator's action.

SEC. 116. TEST PLATFORMS AND COMMERCIAL DEMONSTRATION OCEAN THERMAL ENERGY CONVERSION FACILITY OR PLANTSHIP. 42 USC 9126.

(a) The provisions of this title shall not apply to any test platform which will not operate as an ocean thermal energy conversion facility or platform after conclusion of the testing period.

(b) The provisions of this title shall not apply to ownership, construction, or operation of any ocean thermal energy conversion facility or plantship which the Secretary of Energy has designated in writing as a demonstration project for the development of alternative energy sources for the United States which is conducted by, participated in, or approved by the Department of Energy. The Secretary of Energy, after consultation with the Administrator, shall require such demonstration projects to abide by as many of the substantive requirements of this title as he deems to be practicable without damaging the nature of or unduly delaying such projects.

SEC. 117. PERIODIC REVIEW AND REVISION OF REGULATIONS. 42 USC 9127.

The Administrator and the Secretary of the department in which the Coast Guard is operating shall periodically, at intervals of not more than every 3 years, and in consultation with the Secretary of Energy, review any regulations promulgated pursuant to the provisions of this title to determine the status and impact of such regulations on the continued development, evolution, and commercialization of ocean thermal energy conversion technology. The results of each such review shall be included in the next annual report required by section 405. The Administrator and such Secretary are authorized and directed to promulgate any revisions to the then effective regulations as are deemed necessary and appropriate based on such review, to ensure that any regulations promulgated pursuant to the provisions of this title do not impede such development, evolution, and commercialization of such technology. Additionally, the Secretary of Energy is authorized to propose, based on such review, such revisions for the same purpose. The Administrator or such Secretary, as appropriate, shall have exclusive jurisdiction with respect to any such proposal by the Secretary of Energy and, pursuant to applicable procedures, shall consider and take final action on any such proposal in an expeditious manner. Such consideration shall include at least one informal hearing pursuant to the procedures in section 553 of title 5, United States Code.

Review results.

Post, p. 999.

Proposals by Secretary of Energy.

Hearing.

TITLE II—MARITIME FINANCING FOR OCEAN THERMAL ENERGY CONVERSION

SEC. 201. DETERMINATIONS UNDER THE MERCHANT MARINE ACT, 1936. 42 USC 9141.

(a)(1) For the purposes of section 607 of the Merchant Marine Act, 1936 (46 U.S.C. 1177), any ocean thermal energy conversion facility or plantship licensed pursuant to this Act, and any vessel providing shipping service to or from such an ocean thermal energy conversion

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facility or plantship, shall be deemed to be a vessel operated in the foreign commerce of the United States.

(2) The provisions of paragraph (1) of this subsection shall apply for taxable years beginning after December 31, 1981.

(b) For the purposes of the Merchant Marine Act, 1936 (46 U.S.C. 1177 et seq.) any vessel documented under the laws of the United States and used in providing shipping service to or from any ocean thermal energy conversion facility or plantship licensed pursuant to the provisions of this Act shall be deemed to be used in, and used in an essential service in, the foreign commerce or foreign trade of the United States, as defined in section 905(a) of the Merchant Marine Act, 1936 (46 U.S.C. 1244(a)).

SEC. 202. AMENDMENTS TO TITLE XI OF THE MERCHANT MARINE ACT, 1936.

(a) Section 1101 of the Merchant Marine Act, 1936 (46 U.S.C. 1271), is amended—

(1) in subsection (b) by striking "and" immediately before "dredges" and inserting in lieu thereof a comma, and by inserting immediately after "dredges" the following: "and ocean thermal energy conversion facilities or plantships",

(2) in subsection (g) by striking "and" after the semicolon,

(3) in subsection (h) by striking "equipping" and inserting in lieu thereof "equipping and", and

(4) by adding at the end thereof a new subsection (i) to read as follows:

Definition.

"(i) The term 'ocean thermal energy conversion facility or plantship' means any at-sea facility or vessel, whether mobile, floating unmoored, moored, or standing on the seabed, which uses temperature differences in ocean water to produce electricity or another form of energy capable of being used directly to perform work, and includes any equipment installed on such facility or vessel to use such electricity or other form of energy to produce, process, refine, or manufacture a product, and any cable or pipeline used to deliver such electricity, freshwater, or product to shore, and all other associated equipment and appurtenances of such facility or vessel, to the extent they are located seaward of the highwater mark.".

(b) Section 1104(a)(1) of the Merchant Marine Act, 1936 (46 U.S.C. 1274(a)(1)), is amended by striking "or (E)" and inserting in lieu thereof "(E) as an ocean thermal energy conversion facility or plantship; or (F)".

(c) Section 1104(b)(2) of the Merchant Marine Act, 1936 (46 U.S.C. 1274(b)(2)), is amended by striking "vessel;" and inserting in lieu thereof "vessel: *Provided further,* That in the case of an ocean thermal energy conversion facility or plantship which is constructed without the aid of construction-differential subsidy, such obligations may be in an aggregate principal amount which does not exceed 87½ percent of the actual cost or depreciated actual cost of the facility or plantship;".

SEC. 203. OTEC DEMONSTRATION FUND.

(a) Title XI of the Merchant Marine Act, 1936 (46 U.S.C. 1271–1279b) is further amended by adding at the end thereof a new section 1110 to read as follows:

Guarantees.
46 USC 1279c.
46 USC 1273.

"SEC. 1110. (a) Pursuant to the authority granted under section 1103(a) of this title, the Secretary of Commerce, upon such terms as he shall prescribe, may guarantee or make a commitment to guarantee, payment of the principal of and interest on an obligation which

aids in financing, including reimbursement of an obligor for expenditures previously made for, construction, reconstruction, or reconditioning of a commercial demonstration ocean thermal energy conversion facility or plantship owned by citizens of the United States. Guarantees or commitments to guarantee under this subsection shall be subject to all the provisos, requirements, regulations, and procedures which apply to guarantees or commitments to guarantee made pursuant to section 1104(a)(1) of this title, except that— 46 USC 1274. Exceptions.

"(1) no guarantees or commitments to guarantee may be made by the Secretary of Commerce under this subsection before October 1, 1981;

"(2) the provisions of subsection (d) of section 1104 of this title shall apply to guarantees or commitments to guarantee for that portion of a commercial demonstration ocean thermal energy conversion facility or plantship not to be supported with appropriated Federal funds;

"(3) guarantees or commitments to guarantee made pursuant to this section may be in an aggregate principal amount which does not exceed 87½ percent of the actual cost or depreciated actual cost of the commercial demonstration ocean thermal energy conversion facility or plantship: *Provided,* That, if the commercial demonstration ocean thermal energy conversion facility or plantship is supported with appropriated Federal funds, such guarantees or commitments to guarantee may not exceed 87½ percent of the aggregate principal amount of that portion of the actual cost or depreciated actual cost for which the obligor has an obligation to secure financing in accordance with the terms of the agreement between the obligor and the Department of Energy or other Federal agency; and

"(4) the provisions of this section may be used to guarantee obligations for a total of not more than 5 separate commercial demonstration ocean thermal energy conversion facilities and plantships or a demonstrated 400 megawatt capacity, whichever comes first.

"(b) A guarantee or commitment to guarantee shall not be made under this section unless the Secretary of Energy, in consultation with the Secretary of Commerce, certifies to the Secretary of Commerce that, for the ocean thermal energy conversion facility or plantship for which the guarantee or commitment to guarantee is sought, there is sufficient guarantee of performance and payment to lower the risk to the Federal Government to a level which is reasonable. The Secretary of Energy must base his considerations on the following: (1) the successful demonstration of the technology to be used in such facility at a scale sufficient to establish the likelihood of technical and economic viability in the proposed market; and (2) the need of the United States to develop new and renewable sources of energy and the benefits to be realized from the construction and successful operation of such facility or plantship.

"(c) A special subaccount in the Federal Ship Financing Fund, to be known as the OTEC Demonstration Fund, shall be established on October 1, 1981. The OTEC Demonstration Fund shall be used for obligation guarantees authorized under this section which do not qualify under other sections of this title. Except as specified otherwise in this section, the operation of the OTEC Demonstration Fund shall be identical with that of the parent Federal Ship Financing Fund: except that, notwithstanding the provisions of section 1104(g), (1) all moneys received by the Secretary pursuant to sections 1101 through 1107 of this title with respect to guarantees or commitments

OTEC Demonstration Fund.

46 USC 1274.

46 USC 1271-1279.

to guarantee made pursuant to this section shall be deposited only in the OTEC Demonstration Fund, and (2) whenever there shall be outstanding any notes or other obligations issued by the Secretary of Commerce pursuant to section 1105(d) of this title with respect to the OTEC Demonstration Fund, all moneys received by the Secretary of Commerce pursuant to sections 1101 through 1107 of this title with respect to ocean thermal energy conversional facilities or plantships shall be deposited in the OTEC Demonstration Fund. Assets in the OTEC Demonstration Fund may at any time be transferred to the parent fund whenever and to the extent that the balance thereof exceeds the total guarantees or commitments to guarantee made pursuant to this section then outstanding, plus any notes or other obligations issued by the Secretary of Commerce pursuant to section 1105(d) of this title with respect to the OTEC Demonstration Fund. The Federal Ship Financing Fund shall not be liable for any guarantees or commitments to guarantee issued pursuant to this section. The aggregate unpaid principal amount of the obligations guaranteed with the backing of the OTEC Demonstration Fund and outstanding at any one time shall not exceed $2,000,000,000.

Notes or obligations.
46 USC 1275.

46 USC 1271-1279.

Transfer of assets.

"(d) The provisions of section 1105(d) of this title shall apply specifically to the OTEC Demonstration Fund as well as to the Fund: *Provided, however,* That any notes or obligations issued by the Secretary of Commerce pursuant to section 1105(d) of this title with respect to the OTEC Demonstration Fund shall be payable solely from proceeds realized by the OTEC Demonstration Fund.

Notes or obligations.
46 USC 1275.

"(e) The interest on any obligation guaranteed under this section shall be included in gross income for purposes of chapter 1 of the Internal Revenue Code of 1954.".

Interest.

26 USC 1 *et seq.*

(b)(1) Section 1103(f) of the Merchant Marine Act, 1936 (46 U.S.C. 1273(f)) is amended by striking out "$10,000,000,000." and inserting in lieu thereof "$12,000,000,000, of which $2,000,000,000 shall be limited to obligations pertaining to commercial demonstration ocean thermal energy conversion facilities or plantships guaranteed pursuant to section 1110 of this title.".

Ante, p. 992.

(2) The amendment made by paragraph (1) of this subsection shall take effect October 1, 1981.

Effective date.
46 USC 1273 note.

TITLE III—ENFORCEMENT

42 USC 9151.

SEC. 301. PROHIBITED ACTS.

It is unlawful for any person who is a United States citizen or national, or a foreign national on board an ocean thermal energy conversion facility or plantship or other vessel documented or numbered under the laws of the United States, or who is subject to the jurisdiction of the United States by an international agreement to which the United States is a party—

(1) to violate any provision of this Act, or any rule, regulation, or order issued pursuant to this Act, or any term or condition of any license issued to such person pursuant to this Act;

(2) to refuse to permit any Federal officer or employee authorized to monitor or enforce the provisions of sections 110 and 303 of this Act to board an ocean thermal energy conversion facility or plantship or any vessel documented or numbered under the laws of the United States, for purposes of conducting any search or inspection in connection with the monitoring or enforcement of this Act or any rule, regulation, order, term, or condition referred to in paragraph (1) of this section;

(3) to forcibly assault, resist, oppose, impede, intimidate, or interfere with any such authorized officer or employee in the conduct of any search or inspection described in paragraph (2) of this section;

(4) to resist a lawful arrest for any act prohibited by this section; or

(5) to interfere with, delay, or prevent, by any means, the apprehension or arrest of another person subject to this section knowing that the other person has committed any act prohibited by this section.

SEC. 302. REMEDIES AND PENALTIES. 42 USC 9152.

Orders, issuance and enforcement.

(a)(1) The Administrator or his delegate shall have the authority to issue and enforce orders during proceedings brought under this Act. Such authority shall include the authority to issue subpenas, administer oaths, compel the attendance and testimony of witnesses and the production of books, papers, documents, and other evidence, to take depositions before any designated individual competent to administer oaths, and to examine witnesses.

(2) Whenever on the basis of any information available to him the Administrator finds that any person subject to section 301 of this title is in violation of any provision of this Act or any rule, regulation, order, license, or term or condition thereof, or other requirements under this Act, he may issue an order requiring such person to comply with such provision or requirement, or bring a civil action in accordance with subsection (b) of this section.

(3) Any compliance order issued under this subsection shall state with reasonable specificity the nature of the violation and a time for compliance, not to exceed 30 days, which the Administrator determines is reasonable, taking into account the seriousness of the violation and any good faith efforts to comply with applicable requirements.

(b)(1) Upon a request by the Administrator, the Attorney General shall commence a civil action for appropriate relief, including a permanent or temporary injunction, any violation for which the Administrator is authorized to issue a compliance order under subsection (a)(2) of this section.

(2) Upon a request by the Administrator, the Attorney General shall bring an action in an appropriate district court of the United States for equitable relief to redress a violation, by any person subject to section 301 of this title, of any provision of this Act, any regulation issued pursuant to this Act, or any license condition.

Liability.

(c)(1) Any person who is found by the Administrator, after notice and an opportunity for a hearing in accordance with section 554 of title 5, United States Code, to have committed an act prohibited by section 301 of this title shall be liable to the United States for a civil penalty, not to exceed $25,000 for each violation. Each day of a continuing violation shall constitute a separate violation. The amount of such civil penalty shall be assessed by the Administrator, or his designee, by written notice. In determining the amount of such penalty, the Administrator shall take into account the nature, circumstances, extent and gravity of the prohibited acts committed and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require.

Review.

(2) Any person against whom a civil penalty is assessed under paragraph (1) of this subsection may obtain a review thereof in the appropriate court of the United States by filing a notice of appeal in

such court within 30 days from the date of such order and by simultaneously sending a copy of such notice by certified mail to the Administrator. The Administrator shall promptly file in such court a certified copy of the record upon which such violation was found or such penalty imposed, as provided in section 2112 of title 28, United States Code. The findings and order of the Administrator shall be set aside by such court if they are not found to be supported by substantial evidence, as provided in section 706(2) of title 5, United States Code.

Filing of certified copy.

(3) If any person subject to section 301 fails to pay an assessment of a civil penalty against him after it has become final, or after the appropriate court has entered final judgment in favor of the Administrator, the Administrator shall refer the matter to the Attorney General of the United States, who shall recover the amount assessed in any appropriate court of the United States. In such action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

Assessment, failure to pay.

Review.

(4) The Administrator may compromise, modify, or remit, with or without conditions, any civil penalty which is subject to imposition or which has been imposed under this subsection.

(d)(1) Any person subject to section 301 of this title is guilty of an offense if he willfully commits any act prohibited by such section.

(2) Any offense, other than an offense for which the punishment is prescribed by section 103 of this Act, is punishable by a fine of not more than $75,000 for each day during which the violation continues. Any offense described in paragraphs (2), (3), (4), and (5) of section 301 is punishable by the fine or imprisonment for not more than 6 months, or both. If, in the commission of any offense, the person subject to section 301 uses a dangerous weapon, engages in conduct that causes bodily injury to any Federal officer or employee, or places any Federal officer or employee in fear of imminent bodily injury, the offense is punishable by a fine of not more than $100,000 or imprisonment for not more than 10 years, or both.

(e) Any ocean thermal energy conversion facility or plantship licensed pursuant to this Act and any other vessel documented or numbered under the laws of the United States, except a public vessel engaged in noncommercial activities, used in any violation of this Act or of any rule, regulation, order, license, or term or condition thereof, or other requirements of this Act, shall be liable in rem for any civil penalty assessed or criminal fine imposed and may be proceeded against in any district court of the United States having jurisdiction thereof, whenever it shall appear that one or more of the owners, or bareboat charterers, was at the time of the violation a consenting party or privy to such violation.

42 USC 9153.

SEC. 303. ENFORCEMENT.

Responsibility of NOAA Administrator.

(a) Except where a specific section of this Act designates enforcement responsibility, the provisions of this Act shall be enforced by the Administrator. The Secretary of the department in which the Coast Guard is operating shall have exclusive responsibility for enforcement measures which affect the safety of life and property at sea, shall exercise such other enforcement responsibilities with respect to vessels subject to the provisions of this Act as are authorized under other provisions of law, and may, upon the specific request of the Administrator, assist the Administrator in the enforcement of any provision of this Act. The Administrator and the Secretary of the department in which the Coast Guard is operating may, by agreement, on a reimbursable basis or otherwise, utilize the personnel,

services, equipment, including aircraft and vessels, and facilities of any other Federal agency or department, and may authorize officers or employees of other departments or agencies to provide assistance as necessary in carrying out subsection (b) of this section. The Administrator and the Secretary of the department in which the Coast Guard is operating may issue regulations jointly or severally as may be necessary and appropriate to carry out their duties under this section.

(b) To enforce the provisions of this Act on board any ocean thermal energy conversion facility or plantship or other vessel subject to the provisions of this Act, any officer who is authorized by the Administrator or the Secretary of the department in which the Coast Guard is operating may—

(1) board and inspect any vessel which is subject to the provisions of this Act;

(2) search the vessel if the officer has reasonable cause to believe that the vessel has been used or employed in the violation of any provision of this Act;

(3) arrest any person subject to section 301 of this title if the officer has reasonable cause to believe that the person has committed a criminal act prohibited by sections 301 and 302(d) of this title;

(4) seize the vessel together with its gear, furniture, appurtenances, stores, and cargo, used or employed in, or with respect to which it reasonably appears that such vessel was used or employed in, the violation of any provision of this Act if such seizure is necessary to prevent evasion of the enforcement of this Act;

(5) seize any evidence related to any violation of any provision of this Act;

(6) execute any warrant or other process issued by any court of competent jurisdiction; and

(7) exercise any other lawful authority.

(c) Except as otherwise specified in section 115 of this Act, the district courts of the United States shall have exclusive original jurisdiction over any case or controversy arising under the provisions of this Act. Except as otherwise specified in this Act, venue shall lie in any district wherein, or nearest to which, the cause of action arose, or wherein any defendant resides, may be found, or has his principal office. In the case of Guam, and any Commonwealth, territory, or possession of the United States in the Pacific Ocean, the appropriate court is the United States District Court for the District of Guam, except that in the case of American Samoa, the appropriate court is the United States District Court for the District of Hawaii. Any such court may, at any time—

(1) enter restraining orders or prohibitions;

(2) issue warrants, process in rem, or other process;

(3) prescribe and accept satisfactory bonds or other security; and

(4) take such other actions as are in the interest of justice.

Definitions.

(d) For the purposes of this section, the term "vessel" includes an ocean thermal energy conversion facility or plantship, and the term "provisions of this Act" or "provision of this Act" includes any rule, regulation, or order issued pursuant to this Act and any term or condition of any license issued pursuant to this Act.

TITLE IV—MISCELLANEOUS PROVISIONS

42 USC 9161.

SEC. 401. EFFECT OF LAW OF THE SEA TREATY.

If the United States ratifies a treaty, which includes provisions with respect to jurisdiction over ocean thermal energy conversion activities, resulting from any United Nations Conference on the Law of the Sea, the Administrator, after consultation with the Secretary of State, shall promulgate any amendment to the regulations promulgated under this Act which is necessary and appropriate to conform such regulations to the provisions of such treaty, in anticipation of the date when such treaty shall come into force and effect for, or otherwise be applicable to, the United States.

42 USC 9162.

SEC. 402. INTERNATIONAL NEGOTIATIONS.

The Secretary of State, in cooperation with the Administrator and the Secretary of the department in which the Coast Guard is operating, shall seek effective international action and cooperation in support of the policy and purposes of this Act and may initiate and conduct negotiations for the purpose of entering into international agreements designed to guarantee noninterference of ocean thermal energy conversion facilities and plantships with the thermal gradients used by other such facilities and plantships, to assure protection of such facilities and plantships and of navigational safety in the vicinity thereof, and to resolve such other matters relating to ocean thermal energy conversion facilities and plantships as need to be resolved in international agreements.

42 USC 9163.

SEC. 403. RELATIONSHIP TO OTHER LAWS.

(a)(1) The Constitution, laws, and treaties of the United States shall apply to an ocean thermal energy conversion facility or plantship licensed under this Act and to activities connected, associated, or potentially interfering with the use or operation of any such facility or plantship, in the same manner as if such facility or plantship were an area of exclusive Federal jurisdiction located within a State. Nothing in this Act shall be construed to relieve, exempt, or immunize any person from any other requirement imposed by Federal law, regulation, or treaty.

(2) Ocean thermal energy conversion facilities and plantships licensed under this Act do not possess the status of islands and have no territorial seas of their own.

(b)(1) Except as may otherwise be provided by this Act, nothing in this Act shall in any way alter the responsibilities and authorities of a State or the United States within the territorial seas of the United States.

(2) The law of the nearest adjacent coastal State to which an ocean thermal energy conversion facility located beyond the territorial sea and licensed under this Act is connected by electric transmission cable or pipeline, now in effect or hereafter adopted, amended, or repealed, is declared to be the law of the United States, and shall apply to such facility, to the extent applicable and not inconsistent with any provision or regulation under this Act or other Federal laws and regulations now in effect or hereafter adopted, amended, or repealed: *Provided, however,* That the application of State taxation laws is not extended hereby outside the seaward boundary of any State. All such applicable laws shall be administered and enforced by the appropriate officers and courts of the United States outside the seaward boundary of any State.

Enforcement.

(c)(1) For the purposes of the customs laws administered by the Secretary of the Treasury, ocean thermal energy conversion facilities and plantships documented under the laws of the United States and licensed under this Act shall be deemed to be vessels.

(2) Except insofar as they apply to vessels documented under the laws of the United States, the customs laws administered by the Secretary of the Treasury shall not apply to any ocean thermal energy conversion facility or plantship licensed under the provisions of this Act, but all foreign articles to be used in the construction of any such facility or plantship, including any component thereof, shall first be made subject to all applicable duties and taxes which would be imposed upon or by reason of their importation if they were imported for consumption in the United States. Duties and taxes shall be paid thereon in accordance with laws applicable to merchandise imported into the customs territory of the United States.

SEC. 404. SUBMARINE ELECTRIC TRANSMISSION CABLE AND EQUIPMENT SAFETY. 42 USC 9164.

(a) The Secretary of Energy, in cooperation with other interested Federal agencies and departments, shall establish and enforce such standards and regulations as may be necessary to assure the safe construction and operation of submarine electric transmission cables and equipment subject to the jurisdiction of the United States. Such standards and regulations shall include, but not be limited to, requirements for the use of the safest and best available technology for submarine electric transmission cable shielding, and for the use of automatic switches to shut off electric current in the event of a break in such a cable. Safety standards and regulations.

(b) The Secretary of Energy, in cooperation with other interested Federal agencies and departments, is authorized and directed to report to the Congress within 60 days after the date of enactment of this Act on appropriations and staffing needed to monitor submarine electric transmission cables and equipment subject to the jurisdiction of the United States so as to assure that they meet all applicable standards for construction, operation, and maintenance. Report to Congress.

SEC. 405. ANNUAL REPORT. 42 USC 9165.

Within 6 months after the end of each of the first 3 fiscal years after the date of enactment of this Act, the Administrator shall submit to the President of the Senate and the Speaker of the House of Representatives a report on the administration of this Act during such fiscal year. Such report shall include, with respect to the fiscal year covered by the report— Submittal to President of Senate and Speaker of House.

(1) a description of progress in implementing this Act;

(2) a list of all licenses issued, suspended, revoked, relinquished, surrendered, terminated, renewed, or transferred; denials of issuance of licenses; and required suspensions and modifications of activities under licenses;

(3) a description of ocean thermal energy conversion activities undertaken pursuant to licenses;

(4) the number and description of all civil and criminal proceedings instituted under title III of this Act, and the current status of such proceedings; and

(5) such recommendations as the Administrator deems appropriate for amending this Act.

42 USC 9166.

SEC. 406. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary of Commerce, for the use of the Administrator in carrying out the provisions of this Act, not to exceed $3,000,000 for the fiscal year ending September 30, 1981, not to exceed $3,500,000 for the fiscal year ending September 30, 1982, and not to exceed $3,500,000 for the fiscal year ending September 30, 1983.

42 USC 9167.

SEC. 407. SEVERABILITY.

If any provision of this Act or any application thereof is held invalid, the validity of the remainder of the Act, or any other application, shall not be affected thereby.

Approved August 3, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-994 accompanying H.R. 6154 (Comm. on Merchant Marine and Fisheries).

SENATE REPORT No. 96-721 (Comm. on Commerce, Science, and Transportation).

CONGRESSIONAL RECORD, Vol. 126 (1980):

July 2, considered and passed Senate.

July 21, H.R. 6154 considered and passed House; passage vacated and S. 2492 passed in lieu.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 16, No. 32:

Aug. 4, Presidential statement.

Public Law 96-321
96th Congress

An Act

To allow the transfer of certain funds to fund the heat crisis program.

Aug. 4, 1980
[S. 2995]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Community Services Administration is authorized to transfer such funds as may be necessary from its Rural Development Loan Fund, which has been established pursuant to section 731 of the Economic Opportunity Act to its ongoing heat crisis program which program is carried out under the authority of title II of such Act.

Heat crisis program, fund transfer.

42 USC 2984.
42 USC 2781.

(b) From unexpended funds appropriated for energy crisis activities in Public Laws 96-86, October 12, 1979, 96-123, November 12, 1979, and 96-126, November 27, 1979, there shall be reimbursed to the Rural Development Loan Fund an amount equal to the amount of funds transferred to the heat crisis program.

93 Stat. 656, 923.
93 Stat. 954.

SEC. 2. To the extent that the Community Services Administration has awarded or will award heat crisis program funds to its grantees, and to the extent that such funds were or will be transferred out of the appropriations cited in section 1 of this Act, and to the extent that the award of such funds are prohibited after June 30, 1980, such prohibition shall not apply.

SEC. 3. To the extent that the funds described in sections 1 and 2 of this Act are available, assistance may be provided to States or areas within States which—

Criteria for assistance.

(a) have experienced extreme heat conditions for a significant period of time according to criteria developed for the Community Services Administration by the National Oceanic and Atmospheric Administration; and

(b) contains significant numbers of low-income individuals whose health is threatened due to such extended heat conditions.

Approved August 4, 1980.

LEGISLATIVE HISTORY:

CONGRESSIONAL RECORD, Vol. 126 (1980):
July 30, considered and passed Senate.
July 31, considered and passed House.

Public Law 96-322
96th Congress

An Act

Aug. 4, 1980
[H.R. 6666]

To revise the laws relating to the Coast Guard Reserve.

Coast Guard Reserve.
Law revisions.
14 USC 701 *et seq.*

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That chapter 21 of title 14, United States Code, is amended to read as follows:

"CHAPTER 21—COAST GUARD RESERVE

"SUBCHAPTER A

"GENERAL

"Sec.
"701. Organization.
"702. Authorized strength.
"703. Coast Guard Reserve Boards.
"704. Grades and ratings; military authority.
"705. Benefits.
"706. Temporary members of the Reserve; eligibility and compensation.
"707. Temporary members of the Reserve; disability or death benefits.
"708. Temporary members of the Reserve; certificate of honorable service.
"709. Reserve student aviation pilots; reserve aviation pilots; appointments in commissioned grade.
"710. Appointment or wartime promotion; retention of grade upon release from active duty.
"711. Exemption from military training and draft; exclusiveness of service.
"712. Active duty for emergency augmentation of regular forces.
"713. Enlistment of members engaged in schooling.

"SUBCHAPTER B

"COMMISSIONED OFFICERS

"720. Definitions.
"721. Applicability of this subchapter.
"722. Suspension of this subchapter in time of war or national emergency.
"723. Effect of this subchapter on retirement and retired pay.
"724. Authorized number of officers.
"725. Precedence.
"726. Running mates.
"727. Constructive credit upon initial appointment.
"728. Promotion of Reserve officers on active duty.
"729. Promotion; recommendations of selection boards.
"730. Selection boards; appointment.
"731. Placement in promotion zone; consideration for promotion.
"732. Eligibility for promotion.
"733. Recommendation for promotion of an officer.
"734. Qualifications for promotion.
"735. Promotion; acceptance; oath of office.
"736. Date of rank upon promotion; entitlement to pay.
"737. Type of promotion; temporary.
"738. Effect of removal by the President or failure of consent of the Senate.
"739. Failure of selection for promotion.
"740. Failure of selection and removal from active status.
"741. Retention boards; removal from an active status to provide a flow of promotion.
"742. Maximum ages for retention in an active status.
"743. Rear admiral; maximum service in grade.

"744. Appointment of a former Navy or Coast Guard officer.
"745. Grade on entry upon active duty.
"746. Recall of a retired officer; grade upon release.

"SUBCHAPTER A

"GENERAL

14 USC 701.

"§701. Organization

"The Coast Guard Reserve is a component of the Coast Guard. It shall be organized, administered, trained, and supplied under the direction of the Commandant.

14 USC 702.

"§702. Authorized strength

"(a) The President shall prescribe the authorized strength of the Coast Guard Reserve if not otherwise prescribed by law.

"(b) Subject to the authorized strength of the Coast Guard Reserve, the Secretary shall determine, at least annually, the authorized strength in numbers in each grade necessary to provide for mobilization requirements. Without the consent of the member concerned, a member of the Reserve may not be reduced in grade because of the Secretary's determination.

14 USC 703.

"§703. Coast Guard Reserve Boards

Report.
Membership.

"(a) The Secretary shall convene a Coast Guard Reserve Policy Board at least annually to consider, recommend, and report to the Secretary on Reserve policy matters. At least one-half of the members of the Board shall be Reserve officers.

"(b) The Secretary may convene any other Reserve Board the Secretary considers necessary.

14 USC 704.

"§704. Grades and ratings; military authority

"The grades and ratings in the Reserve, including cadets but not grades above rear admiral, are those prescribed by law or regulation for the Coast Guard. A member of the Reserve on active duty or inactive-duty training has the same authority, rights, and privileges in the performance of that duty as a member of the Regular Coast Guard of corresponding grade or rating.

14 USC 705.

"§705. Benefits

"(a) A member of the Reserve on active duty, on inactive-duty training, or engaged in authorized travel to or from that duty, is entitled to the same benefits as a member of the Naval Reserve of corresponding grade, rating, and length of service. In determining length of service for the purpose of this section, there shall be included all service for which credit is given by law to members of the Regular Coast Guard.

14 USC 461.

"(b) Chapter 13 of this title applies to a member of the Reserve under the same conditions and limitations as it applies to a member of the Regular Coast Guard.

"(c) A member of the Reserve who suffers sickness, disease, disability, or death is entitled to the same benefits as prescribed by law for a member of the Naval Reserve who suffers sickness, disease, disability, or death under similar conditions.

"(d) A member of the Reserve on active duty or when retired for disability is entitled to the benefits of section 253(a) of title 42. A member of the Reserve when on active duty (other than for training)

or when retired for disability is entitled to the benefits of chapter 55 of title 10.

10 USC 1071 *et seq.*

"(e) A member of the Reserve, except an enlisted member retiring on the basis of years of active service, is entitled to the same retirement rights, benefits, and privileges as prescribed by law for a member of the Naval Reserve, and wherever a law confers authority upon the Secretary of the Navy, similar authority is given to the Secretary to be exercised with respect to the Coast Guard when the Coast Guard is not operating as a service in the Navy. An enlisted member of the Reserve who retires on the basis of years of active service is entitled to the same retirement rights, benefits, and privileges as prescribed by law for an enlisted member of the Regular Coast Guard.

14 USC 706.

"§ 706. Temporary members of the Reserve; eligibility and compensation

"A citizen of the United States, its territories, or possessions who is a member of the Auxiliary, an officer or member of the crew of a motorboat or yacht placed at the disposal of the Coast Guard, or a person (including a Government employee without pay other than the compensation of that person's civilian position) who by reason of special training and experience is considered by the Commandant to be qualified for duty, may be enrolled by the Commandant as a temporary member of the Reserve, for duty under conditions the Commandant may prescribe, including part-time and intermittent active duty with or without pay, without regard to age. The Commandant is authorized to define the powers and duties of temporary members of the Reserve, and to confer upon them, appropriate to their qualifications and experience, the same grades and ratings as provided for members of the Reserve. When performing active duty with pay as authorized by this section, temporary members of the Reserve are entitled to receive the pay and allowances of their rank, grade, or rating.

14 USC 707.

"§ 707. Temporary members of the Reserve; disability or death benefits

"(a) If a temporary member of the Reserve is physically injured, or dies as a result of physical injury, and the injury is incurred incident to service while performing active duty, or engaged in authorized travel to or from that duty, the law authorizing compensation for employees of the United States suffering injuries while in the performance of their duties, applies, subject to this section. That law shall be administered by the Secretary of Labor to the same extent as if the member was a civil employee of the United States and was injured in the performance of that duty. For benefit computation, regardless of pay or pay status, the member is considered to have had monthly pay of $600.

"(b) This section does not apply if the workmen's compensation law of a State, a territory, or another jurisdiction provides coverage because of a concurrent employment status of the temporary member. When the temporary member or a dependent is entitled to a benefit under this section and also to a concurrent benefit from the United States on account of the same disability or death, the temporary member or dependent, as appropriate, shall elect which benefit to receive.

Investigation.

"(c) If a claim is filed under this section with the Secretary of Labor for benefits because of an alleged injury or death, the Secretary of Labor shall notify the Commandant who shall direct an investigation

into the facts surrounding the alleged injury or death. The Commandant shall then certify to the Secretary of Labor whether or not the injured or deceased person was a temporary member of the Reserve, the person's military status, and whether or not the injury or death was incurred incident to military service.

"(d) A temporary member of the Reserve, who incurs a physical disability or contracts sickness or disease while performing a duty to which the member has been assigned by competent authority, is entitled to the same hospital treatment afforded a member of the Regular Coast Guard.

"(e) In administering section 8133 of title 5, for a person covered by this section—

"(1) the percentages applicable to payments under that section are—

"(A) 45 per centum under subsection (a)(2) of that section, where the member died fully or currently insured under title II of the Social Security Act, with no additional payments for a child or children so long as the widow or widower remains eligible for payments under that subsection; 42 USC 401.

"(B) 20 per centum under subsection (a)(3) of that section, for one child, and 10 per centum additional for each additional child, not to exceed a total of 75 per centum, where the member died fully or currently insured under title II of the Social Security Act; and

"(C) 25 per centum under subsection (a)(4) of that section, if one parent was wholly dependent for support upon the deceased member at the time of the member's death and the other was not dependent to any extent; 16 per centum to each if both were wholly dependent; and if one was, or both were, partly dependent, a proportionate amount in the discretion of the Secretary of Labor;

"(2) payments may not be made under subsection (a)(5) of that section; and

"(3) the Secretary of Labor shall inform the Secretary of Health and Human Services whenever a claim is filed and eligibility for compensation is established under subsection (a)(2) or (a)(3) of section 8133 of title 5. The Secretary of Health and Human Services shall then certify to the Secretary of Labor whether or not the member concerned was fully or currently insured under title II of the Social Security Act at the time of the member's death.

"§708. Temporary members of the Reserve; certificate of honorable service 14 USC 708.

"In recognition of the service of temporary members of the Reserve, the Secretary may upon request issue an appropriate certificate of honorable service in lieu of a certificate of disenrollment issued to any person following disenrollment under honorable conditions from service as a temporary member. Issuance of a certificate of honorable service to any person under this section does not entitle that person to any rights, privileges, or benefits under any law of the United States.

"§709. Reserve student aviation pilots; Reserve aviation pilots; appointments in commissioned grade 14 USC 709.

"(a) Under regulations prescribed by the Secretary an enlisted member of the Reserve may be designated as a student aviation pilot.

"(b) A member who is not a qualified aviator may not be designated as a student aviation pilot unless the member agrees in writing to serve on active duty for a period of two years after successful completion of flight training, unless sooner released. A student aviation pilot may be released from active duty or discharged at any time as provided for in the regulations prescribed by the Secretary.

"(c) A student aviation pilot who is a qualified civilian aviator may be given a brief refresher course in flight training.

"(d) A student aviation pilot undergoing flight training is entitled to have uniforms and equipment provided at Government expense.

"(e) Under regulations prescribed by the Secretary, a student aviation pilot may be designated an aviation pilot upon the successful completion of flight training.

"(f) In time of peace, an aviation pilot obligated under subsection (b) to serve on active duty for two years may serve for an additional period of not more than two years.

"(g) An aviation pilot may be released from active duty or discharged at any time as provided for in the regulations prescribed by the Secretary.

"(h) If qualified under regulations prescribed by the Secretary, an aviation pilot may be appointed as an ensign in the Reserve.

14 USC 710.

"§710. Appointment or wartime promotion; retention of grade upon release from active duty

"(a) A member of the Reserve on active duty, who is appointed or promoted under section 214 or 275 of this title, is entitled upon release from that duty to the highest grade satisfactorily held by reason of that appointment or promotion. The Secretary shall determine the highest grade satisfactorily held.

14 USC 214, 275.

"(b) Unless otherwise entitled to a higher grade, a member recalled to active duty shall be recalled in the grade in which released under subsection (a).

14 USC 711.

"§711. Exemption from military training and draft; exclusiveness of service

"A member of the Reserve, other than a temporary member, is exempt from registration and liability for military training and service under any other law. No member of the Reserve, other than a temporary member, may be a member of another military organization. A temporary member of the Reserve who is a member of another military component shall, if ordered to active duty therein, be disenrolled as a temporary member of the Reserve.

14 USC 712.

"§712. Active duty for emergency augmentation of regular forces

"(a) Notwithstanding any other law, and for the emergency augmentation of the Regular Coast Guard forces during a time of serious natural or manmade disaster, accident, or catastrophe the Secretary may, subject to approval by the President and without the consent of the member affected, order to active duty of not more than fourteen days in any four-month period and not more than thirty days in any one-year period from the Coast Guard Ready Reserve an organized training unit, a member thereof, or a member not assigned to a unit organized to serve as a unit.

"(b) Under the circumstances of the domestic emergency involved, a reasonable time shall be allowed between the date when a Reserve member ordered to active duty under this section is alerted for that duty and the date when the member is required to enter upon that

duty. Unless the Secretary determines that the nature of the domestic emergency does not allow it, this period shall be at least two days.

"(c) Active duty served under this section—

"(1) satisfies on a day-for-day basis all or a part of the annual active duty for training requirement of section 270 of title 10;

"(2) does not satisfy any part of the active duty obligation of a member whose statutory Reserve obligation is not already terminated; and

"(3) entitles a member while engaged therein, or while engaged in authorized travel to or from that duty, to all rights and benefits, including pay and allowances and time creditable for pay and retirement purposes, to which the member would be entitled while performing other active duty.

"§713. Enlistment of members engaged in schooling 14 USC 713.

"The initial period of active duty for training required by section 511(d) of title 10, may be divided into two successive annual periods of not less than six weeks each, to permit the enlistment of a Reserve member without interrupting any full-time schooling in which the member is engaged.

"SUBCHAPTER B

"COMMISSIONED OFFICERS

"§720. Definitions 14 USC 720.

"As used in this subchapter—

"(1) 'Reserve officer' means a commissioned officer in the Reserve, except an officer excluded by section 721 of this title or a commissioned warrant officer; and *Infra.*

"(2) 'discharged' means released from an appointment as a Reserve officer.

"§721. Applicability of this subchapter 14 USC 721.

"This subchapter applies only to the Reserve; except that it does not apply to a temporary member of the Reserve.

"§722. Suspension of this subchapter in time of war or national emergency 14 USC 722.

"In time of war or national emergency declared by Congress, the President may suspend the operation of this subchapter or any part hereof. If this subchapter or any part hereof is suspended by the President, prior to placing the suspended provision in operation, the President shall by regulation, in so far as practicable, adjust the grades of Reserve officers in the same manner as adjustments in grade are made for Regular officers.

"§723. Effect of this subchapter on retirement and retired pay 14 USC 723.

"Except as provided in subsection 746(b) of this title, nothing in this subchapter authorizes the retirement of a Reserve officer or the payment of retired, retainer, or severance pay to a Reserve officer; or affects in any manner the law relating to the retirement of, or the granting of retired or retainer pay or other benefits to a Reserve officer. *Post,* p. 1015.

"§724. Authorized number of officers 14 USC 724.

"(a) The authorized number of officers in the Reserve in an active status is 5,000. The actual number of Reserve officers in an active status at any time shall not exceed the authorized number unless the

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Secretary determines that a greater number is necessary for planned mobilization requirements, or unless the excess results directly from the operation of law.

"(b) The authorized number of Reserve officers in an active status below the grade of rear admiral shall be distributed in grade in the following percentages, respectively: captain, 1.5; commander, 7.0; lieutenant commander, 22.0; lieutenant, 37.0; and in the combined grades of lieutenant (junior grade) and ensign, 32.5. When the actual number of Reserve officers in an active status in a grade is less than the number authorized, the difference may be applied to increase the authorized number in a lower grade. A Reserve officer may not be reduced in rank or grade solely because of a reduction in an authorized number as provided for in this subsection, or because an excess results directly from the operation of law. The authorized number of Reserve officers in an active status not on active duty in the grade of rear admiral is two.

14 USC 725.

"§725. Precedence

"(a) Reserve officers rank and take precedence in their respective grades among themselves and with officers of the same grade on the active duty promotion list and the permanent commissioned teaching staff in accordance with their dates of rank. When Reserve officers and officers on the active duty promotion list or the permanent commissioned teaching staff have the same date of rank in a grade, they take precedence as determined by the Secretary.

"(b) Notwithstanding any other law, a Reserve officer shall not lose precedence when transferred to or from the active duty promotion list, nor shall that officer's date of rank be changed due to the transfer.

"(c) A Reserve officer shall, when on the active duty promotion list, be promoted in the same manner as any other officer on the active duty promotion list regardless of the length of active duty service of the Reserve officer.

14 USC 726.

"§726. Running mates

"(a) The Secretary shall assign a running mate to each Reserve officer in an active status not on the active duty promotion list. The officer initially assigned as a running mate under this section shall be that officer on the active duty promotion list of the same grade who is next senior in precedence to the Reserve officer concerned. An officer who has twice failed of selection or who has been considered but has not been recommended for continuation under section 289 of this title shall not be assigned as a running mate under this section.

14 USC 289.

"(b) A Reserve officer in an active status not on the active duty promotion list shall be assigned a new running mate as follows:

"(1) If a previously assigned running mate is promoted from below the promotion zone, is removed from the active duty promotion list, suffers a loss of numbers, fails of selection, fails to qualify for promotion, or declines an appointment after being selected for promotion, the new running mate shall be that officer on the active duty promotion list, of the same grade, who is next senior to the previous running mate and who is, or may become, eligible for consideration for promotion. If the previous running mate was on a list of selectees for promotion, the new running mate shall be that officer on the active duty promotion list, of the same grade, who is on a list of selectees for promotion and who is next senior to the previous running mate.

"(2) If a Reserve officer suffers a loss of numbers, the new running mate shall be that officer on the active duty promotion list who, after the loss of numbers has been effected, is the running mate of the Reserve officer next senior to the Reserve officer concerned.

"(3) If a Reserve officer is considered for promotion and fails of selection, fails to qualify for promotion, declines an appointment after being selected for promotion, or has his or her name removed from a list of selectees for promotion, and that officer's running mate is promoted, the new running mate shall be that officer on the active duty promotion list, of the same grade, who, at the time the previous running mate was considered for promotion, was next senior to the previous running mate, was eligible for consideration for promotion, and whose name was not included on a list of selectees for promotion.

"(4) In a situation not expressly covered by this subsection, the Secretary may assign a new running mate as necessary to effect the intent of this section that inequitable changes of precedence do not occur.

"(c) A Reserve officer on the active duty promotion list shall, to the extent practicable and consistent with the limitations imposed by this section, be assigned as the running mate of all Reserve officers junior to the officer, who are in an active status not on the active duty promotion list, and who had a running mate in common with the officer just prior to the time the officer was placed on the active duty promotion list.

"(d) The Secretary may adjust, as necessary, the date of rank of a Reserve officer not on active duty so that the date will correspond with that of the running mate assigned to the officer in accordance with this section. If an overpayment of pay or allowances results from adjusting the date of rank, the overpayment is not subject to recoupment.

"§727. Constructive credit upon initial appointment 14 USC 727.

"Under regulations prescribed by the Secretary, a person, appointed as a Reserve officer, may be assigned a date of rank and precedence which reflects that person's experience, education, or other qualifications. For the purpose of this subchapter only, a person appointed for the purpose of assignment or designation as a law specialist in the Reserve shall be credited with a minimum of three years service in an active status. A person holding a doctor of philosophy, or a comparable degree, in medicine or in a science allied to medicine as determined by the Secretary, may be credited with a minimum of three years service in an active status if appointed for an assignment comparable to that of an officer in the Navy Medical Department.

"§728. Promotion of Reserve officers on active duty 14 USC 728.

"(a) A Reserve officer on active duty, other than for training, duty on a board, or duty of a limited or temporary nature if assigned to active duty from an inactive duty status, shall not be eligible for consideration for promotion under this subchapter; but shall be considered for promotion under chapter 11 of this title. If promoted while serving on active duty the officer shall be considered as having been promoted under this subchapter and shall be an extra number in the grade to which promoted for the purpose of grade distribution as prescribed in this subchapter. Upon release from active duty the 14 USC 211 *et seq.*

officer shall be included in the grade distribution authorized by this subchapter.

"(b) Notwithstanding subsection (a) of this section, a Reserve officer who has been selected for promotion to the next higher grade under this subchapter at the time the officer reports for active duty, shall be promoted to that grade under chapter 11 of this title.

14 USC 211 *et seq.*

"(c) A Reserve officer who, at the time the officer is released from active duty, has been selected for promotion to the next higher grade under chapter 11 of this title, shall be promoted to that grade as though selected under this subchapter.

"(d) A failure of selection for promotion to the next higher grade occurring under this subchapter or under chapter 11 of this title shall count for all purposes.

14 USC 729.

"§729. Promotion; recommendations of selection boards

"(a) Except as otherwise provided by law, a Reserve officer shall only be promoted pursuant to the recommendation of a selection board.

"(b) The Secretary shall convene selection boards from time to time to recommend Reserve officers for promotion to the next higher grade. A board may be convened to consider officers in one or more grades.

"(c) A selection board shall, from among the names of those eligible Reserve officers submitted to it, recommend for promotion to the next higher grade:

"(1) those officers serving in the grade of lieutenant (junior grade) or above whom it considers to be best qualified; and

"(2) those officers serving in the grade of ensign whom it considers to be fully qualified.

"(d) Before convening a selection board to recommend Reserve officers for promotion to a grade above lieutenant (junior grade), the Secretary shall determine the total number of Reserve officers to be selected for promotion to that grade. The number to be selected shall normally be equal to the number of vacancies existing in that grade, plus the number of vacancies anticipated over the next twelve months, minus the number of officers on the list of selectees for that grade. The Secretary may, however, prescribe regulations that provide for the establishment of promotion opportunity percentages for each grade to ensure that equitable promotion opportunities exist among successive groups of Reserve officers being considered for promotion. The number so determined may not cause the number of Reserve officers in an active status in a grade to exceed that authorized for the grade concerned.

"(e) The law and regulations relating to the selection for promotion of a commissioned officer of the Regular Coast Guard to the grade of rear admiral apply to a Reserve officer, except that to be eligible for consideration an officer shall have completed at least ten years commissioned service, of which the last five years shall have been served in the Coast Guard Reserve.

14 USC 260.

"(f) The provisions of section 260 of this title apply to boards convened under this section. The Secretary shall determine the procedure to be used by a selection board.

Report to President. Review.

"(g) The report of a selection board shall be submitted to the Secretary for review and transmission to the President for approval. When an officer recommended by a board for promotion is not acceptable to the President, the President may remove the name of that officer from the report of the board.

"(h) The recommendations of a selection board, as approved by the President, constitute a list of selectees from which the promotions of Reserve officers shall be made. An officer on a list of selectees remains thereon until promoted unless removed by the President under section 738 of this title. If an existing list of selectees has not been exhausted by the time a later list has been approved, all officers remaining on the older list shall be tendered appointments prior to those on the later list. List of selectees.

Post, p. 1013.

"(i) A Reserve officer whose name is on a list of selectees for promotion shall, unless that officer's promotion is lawfully withheld, be tendered an appointment in the next higher grade at the same time, or as soon thereafter as practicable, as that officer's running mate is tendered a similar appointment.

14 USC 730.

"§730. Selection boards; appointment

"(a) A selection board shall (1) be appointed and convened by the Secretary; (2) consist of at least 50 per centum Reserve officer membership, except in the case of a flag officer selection board where, to the extent practicable, it shall consist of at least 50 per centum Reserve officer membership; (3) consist only of members, Reserve or Regular, senior in grade to any officer being considered by that board; and (4) be composed of not less than five members, which number constitutes a quorum. Membership.

"(b) A selection board serves for the length of time prescribed by the Secretary, but no board may serve longer than one year. No officer may serve on two consecutive selection boards for the same grade when the second of those boards considers an officer who was considered, but not recommended for promotion, by the first selection board.

"(c) Each member of a selection board shall swear that he will, without prejudice or partiality, and having in view both the special fitness required of officers and the efficiency of the Coast Guard, perform the duties imposed upon him. Not less than a majority of the total membership of a selection board shall concur in each recommendation made by the board.

"(d) An officer eligible for consideration for promotion by a selection board may forward, through official channels, a written communication inviting the attention of the board to any matter in the officer's record in the armed forces that, in the opinion of the officer concerned, is important to the board's consideration. A communication forwarded under this subsection shall arrive in time to allow delivery to the board prior to its convening, and may not criticize or reflect upon the character, conduct, or motive of any officer. Written communication to board.

14 USC 731.

"§731. Placement in promotion zone; consideration for promotion

"Subject to the eligibility requirements of this subchapter, a Reserve officer shall be placed in a promotion zone when that officer's running mate is placed in a promotion zone and shall, in accordance with the provisions of this subchapter, be considered for promotion at approximately the same time as that officer's running mate or as soon thereafter as practicable.

14 USC 732.

"§732. Eligibility for promotion

"A Reserve officer is eligible for consideration for promotion and for promotion under this subchapter, if that officer is in an active status. A Reserve officer who has been considered but not recommended for retention in an active status by a board convened under

Post, p. 1014.

subsection 741(a) of this title, is not eligible for consideration for promotion.

14 USC 733.

"§733. Recommendation for promotion of an officer previously removed from an active status

Recommended list of selectees.

"A Reserve officer recommended for promotion by a selection board but not promoted because of removal from an active status shall be reconsidered by a selection board after returning to an active status and if selected shall be placed on a recommended list of selectees for promotion. A Reserve officer to whom this section applies is not considered to have failed of selection when eliminated from a list of selectees for promotion solely as a result of being removed from an active status.

14 USC 734.

"§734. Qualifications for promotion

"(a) A Reserve officer shall not be promoted to a higher grade unless the officer has been found to be physically qualified and the character of the officer's service subsequent to the convening of the selection board which recommended the officer for promotion has been verified as satisfactory.

"(b) Subsection (a) of this section does not exclude from promotion a Reserve officer physically disqualified by a medical board for duty at sea or in the field, if the disqualification results from wounds received in the line of duty, and those wounds do not incapacitate the officer for other duties in the grade to which the officer is to be promoted.

14 USC 735.

"§735. Promotion; acceptance; oath of office

"(a) A Reserve officer who has been appointed under this subchapter is considered to have accepted the appointment unless delivery thereof cannot be effected.

"(b) A Reserve officer who has served continuously since taking the oath of office prescribed in section 3331 of title 5, is not required to take a new oath of office upon appointment in a higher grade.

14 USC 736.

"§736. Date of rank upon promotion; entitlement to pay

"(a) When a Reserve officer is promoted to the next higher grade under this subchapter, the same date of rank shall be assigned as that assigned to the officer's running mate. A Reserve officer so promoted shall be allowed the pay and allowances of the higher grade for duty performed from the date of the officer's appointment thereto.

"(b) Notwithstanding any other law and when a Reserve officer's running mate is so entitled, a Reserve officer in the grade of rear admiral is entitled to the pay and allowances of the upper half for duty performed.

Appointment date.

"(c) For the purposes of subsection (a) of this section, the date of appointment shall be that date when promotion authority is exercised by the Secretary.

14 USC 737.

"§737. Type of promotion; temporary

"Notwithstanding any other law, if a Reserve officer is promoted when the officer's running mate is promoted and the promotion of the running mate is on a temporary basis, the promotion of the Reserve officer is also on a temporary basis. If subsequently the running mate is reverted to a lower grade, other than for reasons of discipline, incompetence, or at the running mate's request, the Reserve officer shall likewise revert to the same lower grade with corresponding precedence.

"§738. Effect of removal by the President or failure of consent of the Senate 14 USC 738.

"(a) The President may, for cause, remove the name of any officer from a list of selectees established under section 729 of this title. *Ante*, p. 1010.

"(b) If the Senate, where required, does not consent to the appointment of an officer whose name is on a list of selectees established under section 729 of this title, that officer's name shall be removed from the list.

"(c) An officer whose name is removed from a list of selectees under subsection (a) or (b) continues to be eligible for consideration for promotion. If selected for promotion by the next selection board and promoted, that officer shall be assigned the date of rank and precedence that would have been assigned if the officer's name had not been previously removed. However, if the officer is not selected by the next selection board, or if the officer's name is again removed from the list of selectees, the officer shall be considered for all purposes as having twice failed of selection for promotion.

"§739. Failure of selection for promotion 14 USC 739.

"(a) A Reserve officer, other than one serving in the grade of captain, who is, or is senior to, the junior officer in the promotion zone established for the officer's grade, fails of selection if not selected for promotion by the selection board that considered the officer, or if having been selected for promotion by the board, the officer's name is thereafter removed from the report of the board by the President.

"(b) A Reserve officer is not considered to have failed of selection if the officer was not considered by a selection board because of administrative error. If that officer is selected by the next appropriate selection board after the error is discovered, and is promoted, the same date of rank and precedence shall be assigned that would have been assigned if the officer had been recommended for promotion by the selection board that originally would have considered the officer but for the error.

"§740. Failure of selection and removal from an active status 14 USC 740.

"(a) The Secretary—

"(1) may remove from an active status a Reserve officer who has twice failed of selection to the next higher grade; and

"(2) shall remove from an active status a Reserve officer serving in the grade of captain who has completed thirty years of total commissioned service and whose name is not carried on an approved list of selectees for promotion to the grade of rear admiral.

"(b) A Reserve officer who has twice failed of selection to the next higher grade and who is not removed from an active status under subsection (a)(1) of this section shall be retained for the period prescribed by the Secretary.

"(c) Subject to section 1006 of title 10, a Reserve officer who is removed from an active status under subsection (a) of this section shall be given an opportunity to transfer to the Retired Reserve, if qualified, but unless so transferred shall, in the discretion of the Secretary, be transferred to the inactive status list or discharged as follows:

"(1) if removed from an active status under subsection (a)(1) of this section, on June 30 next following the approval date of the board report by virtue of which the officer's second failure of selection occurs; or

"(2) if removed from an active status under subsection (a)(2) of this section, on June 30 next following the date on which the officer completes thirty years of total commissioned service as computed under this section.

"(d) For the purpose of this section, the total commissioned service of an officer who has served continuously in the Reserve following appointment in the grade of ensign shall be computed from the date on which that appointment was accepted. A Reserve officer initially appointed in a grade above ensign is considered to have the actual total commissioned service performed in a grade above commissioned warrant officer or the same total commissioned service as an officer of the Regular Coast Guard who has served continuously from an original appointment as ensign, who has not lost numbers or precedence, and who is, or was, junior to the Reserve officer, whichever is greater.

14 USC 741.

"§741. Retention boards; removal from an active status to provide a flow of promotion

"(a) Notwithstanding any other provision of this title, whenever the Secretary determines that it is necessary to reduce the number of Reserve officers in an active status in any grade to provide a steady flow of promotion, or that there is an excessive number of Reserve officers in an active status in any grade, the Secretary may appoint and convene a retention board to consider all of the Reserve officers in that grade in an active status not on active duty and not on an approved list of selectees for promotion to the next higher grade. The retention board shall select and recommend a specified number of the officers under consideration for retention in an active status. This board shall—

Membership.

"(1) to the extent practicable, consist of at least 50 per centum Reserve officers;

"(2) consist only of officers who are senior in rank to any officers being considered by that board; and

"(3) to the extent practicable, consist of officers who have not served on the last previous retention board which considered officers of the same grade.

"(b) Subject to section 1006 of title 10, a Reserve officer who is not recommended for retention in an active status under this section shall be given an opportunity to transfer to the Retired Reserve, if qualified, but unless so transferred shall, in the discretion of the Secretary, be transferred to the inactive status list or discharged on June 30 next following the date on which the report of the retention board is approved.

14 USC 260.

"(c) The provisions of section 260 of this title shall, to the extent that they are not inconsistent with this subchapter, apply to boards convened under this section.

14 USC 742.

"§742. Maximum ages for retention in an active status

Reserve officer.

"(a) A Reserve officer, if qualified, shall be transferred to the Retired Reserve on the day the officer becomes sixty-two years of age.

Reserve rear admiral.

"(b) Notwithstanding subsection (a) of this section, the Secretary may authorize the retention of a Reserve rear admiral in an active status not longer than the day on which the officer concerned becomes sixty-four years of age.

"(c) Except as provided for in subsections (a) and (b) of this section, a Reserve officer shall be discharged effective upon the day the officer becomes sixty-two years of age.

"§743. Rear admiral; maximum service in grade 14 USC 743.

"Unless retained in or removed from an active status under any other law, a Reserve rear admiral shall be removed from an active status on the day that officer completes four years of service in that grade.

"§744. Appointment of a former Navy or Coast Guard officer 14 USC 744.

"A former officer of the Regular Navy or Coast Guard who applies for a Reserve commission within one year of resigning the officer's Regular commission, and who is appointed in the same grade previously held in the Regular Navy or Coast Guard, shall be given the same date of rank in that grade as that previously assigned to the officer while a member of the Regular Navy or Coast Guard.

"§745. Grade on entry upon active duty 14 USC 745.

"A Reserve officer ordered to active duty or active duty for training shall be ordered in the grade held; except that the Secretary may authorize a higher grade.

"§746. Recall of a retired officer; grade upon release 14 USC 746.

"(a) When an officer in the Retired Reserve or an officer on a Reserve retired list is recalled to active duty, that officer shall be recalled in a manner similar to the recall of a Regular retired officer.

"(b) An officer in the Retired Reserve or an officer on a Reserve retired list recalled to active duty shall upon release therefrom be advanced in the Retired Reserve or on the Reserve retired list to the highest grade held on active duty, if: (1) appointed to a higher grade while on that duty, and (2) the officer's performance has been satisfactory in the higher grade.".

CONFORMING AMENDMENT

SEC. 2. Subsection 1006(e) of title 10, United States Code is amended by striking out "787" in the first sentence and substituting "740".

Approved August 4, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1011 (Comm. on Merchant Marine and Fisheries).
CONGRESSIONAL RECORD, Vol. 126 (1980):
June 9, considered and passed House.
July 23, considered and passed Senate.

Public Law 96-323
96th Congress

An Act

Aug. 4, 1980
[H.R. 5580]

To amend title 10, United States Code, to authorize the Secretary of Defense to enter into certain agreements to further the readiness of the military forces of the North Atlantic Treaty Organization.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "North Atlantic Treaty Organization Mutual Support Act of 1979".

North Atlantic Treaty Organization Mutual Support Act of 1979.
10 USC 2321 note.

SEC. 2. (a) Title 10, United States Code, is amended by inserting after chapter 137 the following new chapter:

"CHAPTER 138—NORTH ATLANTIC TREATY ORGANIZATION ACQUISITION AND CROSS-SERVICING AGREEMENTS

"Sec.
"2321. Authority to acquire logistic support, supplies, and services for United States armed forces in Europe.
"2322. Cross-servicing agreements.
"2323. Law applicable to acquisition and cross-servicing agreements.
"2324. Methods of payment for acquisitions and transfers by the United States.
"2325. Liquidation of accrued credits and liabilities.
"2326. Crediting of receipts.
"2327. Limitation on amounts that may be obligated or accrued by the United States.
"2328. Inventories of supplies not to be increased.
"2329. Regulations.
"2330. Annual reports.
"2331. Definitions.

10 USC 2321.

"§ 2321. Authority to acquire logistic support, supplies, and services for United States armed forces in Europe

"Subject to section 2323 of this title and subject to the availability of appropriations, the Secretary of Defense may acquire from the Governments of North Atlantic Treaty Organization countries and from North Atlantic Treaty Organization subsidiary bodies logistic support, supplies, and services for elements of the armed forces deployed in Europe and adjacent waters.

10 USC 2322.

"§ 2322. Cross-servicing agreements

"Subject to section 2323 of this title and to the availability of appropriations, and after consultation with the Secretary of State, the Secretary of Defense may enter into agreements with the Government of any North Atlantic Treaty Organization country and with any North Atlantic Treaty Organization subsidiary body under which the United States agrees to provide logistic support, supplies, and services to military forces of such country or subsidiary body deployed in Europe and adjacent waters in return for the reciprocal provision of logistic support, supplies, and services by such country or subsidiary body to elements of the armed forces deployed in Europe and adjacent waters.

"§ 2323. Law applicable to acquisition and cross-servicing agreements 10 USC 2323.

"(a) Except as provided in subsection (b), acquisition of logistic support, supplies, and services under section 2321 of this title and agreements entered into under section 2322 of this title shall be made in accordance with chapter 137 of this title and the provisions of this chapter. 10 USC 2301 *et seq.*

"(b) Sections 2207, 2304(g), 2306(a), 2306(b), 2306(e), 2306(f), and 2313 of this title, section 3741 of the Revised Statutes (41 U.S.C. 22), and section 719 of the Defense Production Act of 1950 (50 U.S.C. App. 2168) shall not apply to acquisitions made under the authority of section 2321 of this title or to agreements entered into under section 2322 of this title. 10 USC 2207, 2304, 2306, 2313.

"§ 2324. Methods of payment for acquisitions and transfers by the United States 10 USC 2324.

"(a) Logistics support, supplies, and services may be acquired or transferred by the United States under the authority of this chapter on a reimbursement basis or by replacement-in-kind or exchange of supplies or services of an identical or substantially identical nature.

"(b)(1) In entering into agreements with the Government of another North Atlantic Treaty Organization country for the acquisition or transfer of logistic support, supplies, and services on a reimbursement basis, the Secretary of Defense shall negotiate for adoption of the following pricing principles for reciprocal application: Reciprocal pricing principles.

"(A) The price charged by a supplying country for logistics support, supplies, and services specifically procured by the supplying country from its contractors for a recipient country shall be no less favorable than the price for identical items or services charged by such contractors to the armed forces of the supplying country, taking into account price differentials due to delivery schedules, points of delivery, and other similar considerations.

"(B) The price charged a recipient country for supplies furnished by a supplying country from its inventory, and the price charged a recipient country for logistics support and services furnished by the officers, employees, or governmental agencies of a supplying country, shall be the same as the price charged for identical supplies, support, or services acquired by an armed force of the supplying country from such governmental sources.

"(2) To the extent that the Secretary of Defense is unable to obtain mutual acceptance by the other country involved of the reciprocal pricing principles for reimbursable transactions set forth in paragraph (1)—

"(A) the United States may not acquire from such country any logistic support, supply, or service not governed by such reciprocal pricing principles unless the United States forces commander acquiring such support, supply, or service determines (after price analysis) that the price thereof is fair and reasonable; and

"(B) transfers by the United States to such country under this Act of any logistic support, supply, or service that is not governed by such reciprocal pricing principles shall be subject to the pricing provisions of the Arms Export Control Act (22 U.S.C. 2751 et seq.).

"(3) To the extent that indirect costs (including charges for plant and production equipment), administrative surcharges, and contract administration costs with respect to any North Atlantic Treaty Organization country are not waived by operation of the reciprocal Waiver.

pricing principles of paragraph (1), the Secretary of Defense may, on a reciprocal basis, agree to waive such costs.

"(4) The pricing principles set forth in paragraph (2) and the waiver authority provided in paragraph (3) shall also apply to agreements with North Atlantic Treaty Organization subsidiary bodies under this chapter.

10 USC 2325.

"§ 2325. Liquidation of accrued credits and liabilities

"Credits and liabilities of the United States accrued as a result of acquisitions and transfers of logistic support, supplies, and services under the authority of this chapter shall be liquidated not less often than once every three months by direct payment to the entity supplying such support, supplies, or services by the entity receiving such support, supplies, or services.

10 USC 2326.

"§ 2326. Crediting of receipts

"Any receipt of the United States as a result of an agreement entered into under this chapter shall be credited to applicable appropriations, accounts, and funds of the Department of Defense.

10 USC 2327.

"§ 2327. Limitation on amounts that may be obligated or accrued by the United States

Liabilities.

"(a) Except during a period of active hostilities involving the North Atlantic Treaty Organization, the total amount of reimbursable liabilities that the United States may accrue under this chapter (before the computation of offsetting balances) may not exceed $100,000,000 in any fiscal year, and of such amount not more than $25,000,000 in liabilities may be accrued for the acquisition of supplies (other than petroleum, oils, and lubricants).

Credits.

"(b) Except during a period of active hostilities involving the North Atlantic Treaty Organization, the total amount of reimbursable credits that the United States may accrue under this chapter (before the computation of offsetting balances) may not exceed $100,000,000 in any fiscal year.

10 USC 2328.

"§ 2328. Inventories of supplies not to be increased

"Inventories of supplies for elements of the armed forces may not be increased for the purpose of transferring supplies under the authority of this Act to military forces of any North Atlantic Treaty Organization country or any North Atlantic Treaty Organization subsidiary body.

10 USC 2329.

"§ 2329. Regulations

Copies, transmittal to Congress.

"The Secretary of Defense shall prescribe regulations to implement this chapter and shall, not later than sixty days before the effective date of such regulations, transmit copies of such regulations to the Congress. No agreement to make an acquisition or transfer under the authority provided by this chapter may be entered into until such regulations take effect.

10 USC 2330.

"§ 2330. Annual reports

Submittal to Congress.

"The Secretary of Defense shall submit to the Congress not later than February 1 of each year a report containing—

"(1) a description of each agreement entered into under the authority of this chapter that was in effect during the fiscal year preceding the fiscal year in which such report is submitted;

"(2) a report of the dollar value of each reimbursable acquisition or transfer of logistic support, supplies, or services by the

United States (by appropriation, account, or fund) during such fiscal year under each such agreement;

"(3) a report of nonreimbursable acquisitions and transfers of logistic support and services by the United States (by appropriation, account, and fund) during such fiscal year under each such agreement; and

"(4) a description of each agreement entered into (or expected to be entered into) under the authority of this chapter that is expected to be in effect during the fiscal year in which such report is submitted, together with a report of the estimated total dollar value of acquisitions and transfers by the United States (by appropriation, account, or fund) expected to be made during such fiscal year under each such agreement.

10 USC 2331.

"§ 2331. Definitions

"In this chapter:

"(1) 'Logistic support, supplies, and services' means food, billeting, transportation, petroleum, oils, lubricants, clothing, communications services, medical services, ammunition, base operations support (and construction incident to base operations support), storage services, use of facilities, training services, spare parts and components, repair and maintenance services, and port services.

"(2) 'North Atlantic Treaty Organization subsidiary bodies' means—

"(A) any organization within the meaning of the term 'subsidiary bodies' in article I of the multilateral treaty on the Status of the North Atlantic Treaty Organisation, National Representatives and International Staff, signed at Ottawa on September 20, 1951 (TIAS 2992; 5 UST 1087); and

"(B) any international military headquarters or organization to which the Protocol on the Status of International Military Headquarters Set Up Pursuant to the North Atlantic Treaty, signed at Paris on August 28, 1952 (TIAS 2978; 5 UST 870), applies.".

(b) The tables of chapters at the beginning of subtitle A, and at the beginning of part IV of subtitle A, of title 10, United States Code, are amended by inserting after the item relating to chapter 137 the following new item:

"138. North Atlantic Treaty Organization Acquisition and Cross-Servicing Agreements..... 2321".

Approved August 4, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 96-612, Pt. 1 (Comm. on Armed Services) and Pt. 2 (Comm. on Foreign Affairs).

SENATE REPORTS: No. 96-795 (Comm. on Armed Services) and No. 96-842 (Comm. on Foreign Relations).

CONGRESSIONAL RECORD:

Vol. 125 (1979): Dec. 3, considered and passed House.

Vol. 126 (1980): July 21, considered and passed Senate.

Public Law 96-324
96th Congress

An Act

Aug. 8, 1980
[H.R. 1198]

To clarify the authority to establish lines of demarcation dividing the high seas and inland waters.

High seas and inland waters demarcation lines.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2 of the Act of February 19, 1895 (28 Stat. 672), as amended (33 U.S.C. 151), is amended to read as follows:

"SEC. 2. (a) The Secretary of the department in which the Coast Guard is operating shall establish appropriate identifiable demarcation lines dividing the high seas from harbors, rivers, and other inland waters of the United States, for the purpose of determining the applicability of special navigational rules in lieu of the International Regulations for Preventing Collisions at Sea.

"(b) The Secretary shall also establish appropriate identifiable lines dividing inland waters of the United States from the high seas for the purpose of determining the applicability of each statute that refers to this section or this section, as amended. These lines may not be located more than twelve nautical miles seaward of the base line from which the territorial sea is measured. These lines may differ in position for the purposes of different statutes.

"United States."

"(c) For the purposes of this section, the term 'United States' includes the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Canal Zone, Guam, American Samoa, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other Commonwealth, territory, or possession of the United States.".

SEC. 2. Section 10 of the Act of May 28, 1908 (35 Stat. 428), as amended (46 U.S.C. 395), is further amended by adding a new subsection to read as follows:

Seagoing barge.

"(d) A seagoing barge means a barge which in the usual course of its employment proceeds outside the line dividing the inland waters from the high seas, as defined in section 2 of the Act of February 19, 1895 (28 Stat. 672), as amended (33 U.S.C. 151).".

Approved August 8, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-427 (Comm. on Merchant Marine and Fisheries).
SENATE REPORT No. 96-853 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD:
Vol. 125 (1979): Sept. 17, considered and passed House.
Vol. 126 (1980): July 24, considered and passed Senate.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:
Vol. 16, No. 32 (1980): Aug. 8, Presidential statement.

Public Law 96-325
96th Congress

An Act

To amend the Shipping Act, 1916, to exempt collective bargaining and related agreements from regulation by the Federal Maritime Commission.

Aug. 8, 1980
[H.R. 6613]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Maritime Labor Agreements Act of 1980.
46 USC 842 note.

SECTION 1. That this Act may be cited as the "Maritime Labor Agreements Act of 1980".

"Maritime labor agreement."

SEC. 2. Section 1 of the Shipping Act, 1916 (46 U.S.C. 801) is amended by adding, at the end of that section, the following:

"The term 'maritime labor agreement' means any collective bargaining agreement between an employer subject to this Act, or group of such employers and a labor organization representing employees in the maritime or stevedoring industry, or any agreement preparatory to such a collective bargaining agreement among members of a multiemployer bargaining group, or any agreement specifically implementing provisions of such a collective bargaining agreement or providing for the formation, financing, or administration of a multiemployer bargaining group.".

Filing of common carrier contracts.

SEC. 3. The first paragraph of section 15 of the Shipping Act, 1916 (46 U.S.C. 814) is amended to read as follows:

"SEC. 15. Every common carrier by water, or other person subject to this Act, shall file immediately with the Commission a true copy, or, if oral, a true and complete memorandum, of every agreement with another such carrier or other person subject to this Act, or modification or cancellation thereof, to which it may be a party or conform in whole or in part, fixing or regulating transportation rates or fares; giving or receiving special rates, accommodations, or other special privileges or advantages; controlling, regulating, preventing, or destroying competition; pooling or apportioning earnings, losses, or traffic; allotting ports or restricting or otherwise regulating the number and character of sailings between ports; limiting or regulating in any way the volume or character of freight or passenger traffic to be carried; or in any manner providing for an exclusive, preferential, or cooperative working arrangement. The term 'agreement' in this section includes understandings, conferences, and other arrangements, but does not include maritime labor agreements or any provisions of such agreements, unless such provisions provide for an assessment agreement described in the fifth paragraph of this section.".

"Agreement."

Assessment agreements.
46 USC 814.

SEC. 4. Section 15 of the Shipping Act, 1916, as amended, is further amended by inserting between the fourth and fifth paragraphs thereof, the following new paragraph:

"Assessment agreements, whether part of a collective bargaining agreement or negotiated separately, to the extent they provide for the funding of collectively bargained fringe benefit obligations on other than a uniform man-hour basis, regardless of the cargo handled or type of vessel or equipment utilized, shall be deemed approved upon filing with the Commission. The Commission shall thereafter, upon complaint filed within 2 years of the date of filing of the agreement, disapprove, cancel, or modify any such agreement, or charge or

Complaint filing.

assessment pursuant thereto, that it finds, after notice and hearing, to be unjustly discriminatory or unfair as between carriers, shippers, or ports, or to operate to the detriment of the commerce of the United States. The Commission shall issue its final decision in any such complaint proceeding within 1 year of the date of filing of the complaint. To the extent that any assessment or charge is found, in such a complaint proceeding, to be unjustly discriminatory or unfair as between carriers, shippers, or ports, the Commission shall remedy the unjust discrimination or unfairness for the period of time between the filing of the complaint and the final decision by means of assessment adjustments. Such adjustments shall be implemented by prospective credits or debits to future assessments or charges, except in the case of a complainant who has ceased activities subject to the assessment or charge, in which case reparation may be awarded. To the extent that any provision of this paragraph conflicts with the language of section 22 or any other section of this Act, or of the Intercoastal Shipping Act, 1933, the provisions of this paragraph shall control in any matter involving assessment agreements described herein."

Decision. Complaint proceeding.

46 USC 821. 46 USC 848.

SEC. 5. Section 45 of the Shipping Act, 1916 (46 U.S.C. 842), and all references thereto, is redesignated section 46 and a new section is added as follows:

"SEC. 45. The provisions of this Act and of the Intercoastal Shipping Act, 1933, shall not apply to maritime labor agreements and all provisions of such agreements except to the extent that such provisions provide for the funding of collectively bargained fringe benefit obligations on other than a uniform man-hour basis, regardless of the cargo handled or type of vessel or equipment utilized. Notwithstanding the preceding sentence, nothing in this section shall be construed as providing an exemption from the provisions of this Act or of the Intercoastal Shipping Act, 1933, for any rates, charges, regulations, or practices of a common carrier by water or other person subject to this Act which are required to be set forth in a tariff, whether or not such rates, charges, regulations, or practices arise out of, or are otherwise related to a maritime labor agreement."

46 USC 841c. 46 USC 848.

Exemptions.

SEC. 6. The changes made to existing laws by the provisions of this Act shall not affect any claims for reparation, if any, based upon conduct occurring prior to the date of enactment of this Act or formal Commission proceedings commenced prior to the date of enactment of this Act.

Reparation claims. 46 USC 841c note.

Approved August 8, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-876 (Comm. on Merchant Marine and Fisheries).
SENATE REPORT No. 96-854 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Apr. 15, considered and passed House.
July 24, considered and passed Senate, amended.
July 30, House concurred in Senate amendments.

Public Law 96-326
96th Congress

An Act

To establish dispute resolution procedures to settle disputes between supervisors and the United States Postal Service.

Aug. 8, 1980
[H.R. 827]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1004 of title 39, United States Code, is amended by adding at the end thereof the following new subsections:

Postal Service dispute resolution.

"(c)(1) The Postal Service and the supervisors' organization shall, unless otherwise mutually agreed to, meet at least once each month to implement the consultation and direct participation procedures of subsection (b) of this section.

Supervisory organization.

"(2)(A) At least 7 days before each meeting, each party shall—

"(i) provide notice of agenda items, and

"(ii) describe in detail the proposals such party will make with respect to each such item.

"(B) Grievances of individual employees shall not be matters which may be included as agenda items under this paragraph.

"(d)(1) In order to facilitate consultation and direct participation by the supervisors' organization in the planning and development of programs under subsection (b) of this section which affect members of the supervisors' organization, the Postal Service shall—

"(A) provide in writing a description of any proposed program and the reasons for it;

"(B) give the organization at least 60 days (unless extraordinary circumstances require earlier action) to review and make recommendations with respect to the program; and

"(C) give any recommendation from the organization full and fair consideration in deciding whether or how to proceed with the program.

"(2) If the Postal Service decides to implement a program described in paragraph (1) of this subsection, the Postal Service shall before such implementation—

"(A) give the supervisors' organization details of its decision to implement the program, together with the information upon which the decision is based;

"(B) give the organization an opportunity to make recommendations with respect to the program; and

"(C) give such recommendations full and fair consideration, including the providing of reasons to the organization if any of such recommendations are rejected.

"(3) If a program described in paragraph (1) of this subsection is implemented, the Postal Service shall—

"(A) develop a method for the supervisors' organization to participate in further planning and development of the program, and

"(B) give the organization adequate access to information to make that participation productive.

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"(4) The Postal Service and the supervisors' organization may, by agreement, adopt procedures different from those provided by this subsection.

Pay policy proposals.

"(e)(1) The Postal Service shall, within 45 days of each date on which an agreement is reached on a collective bargaining agreement between the Postal Service and the bargaining representative recognized under section 1203 of this title which represents the largest number of employees, make a proposal for any changes in pay policies and schedules and fringe benefit programs for members of the supervisors' organization which are to be in effect during the same period as covered by such agreement.

39 USC 1203.

"(2) The Postal Service and the supervisors' organization shall strive to resolve any differences concerning the proposal described in paragraph (1) of this subsection under the procedures provided for, or adopted under, subsection (d) of this section.

"(3) The Postal Service shall provide its decision concerning changes proposed under paragraph (1) of this subsection to the supervisors' organization within 90 days following the submission of the proposal.

Federal Mediation and Conciliation Service, factfinding panel.

"(f)(1) If, notwithstanding the mutual efforts required by subsection (e) of this section, the supervisors' organization believes that the decision of the Postal Service is not in accordance with the provisions of this title, the organization may, within 10 days following its receipt of such decision, request the Federal Mediation and Conciliation Service to convene a factfinding panel (hereinafter referred to as the 'panel') concerning such matter.

Panel selection.

"(2) Within 15 days after receiving a request under paragraph (1) of this subsection, the Federal Mediation and Conciliation Service shall provide a list of 7 individuals recognized as experts in supervisory and managerial pay policies. Each party shall designate one individual from the list to serve on the panel. If, within 10 days after the list is provided, either of the parties has not designated an individual from the list, the Director of the Federal Mediation and Conciliation Service shall make the designation. The first two individuals designated from the list shall meet within 5 days and shall designate a third individual from the list. The third individual shall chair the panel. If the two individuals designated from the list are unable to designate a third individual within 5 days after their first meeting, the Director shall designate the third individual.

"(3)(A) The panel shall recommend standards for pay policies and schedules and fringe benefit programs affecting the members of the supervisors' organization for the period covered by the collective bargaining agreement specified in subsection (e)(1) of this section. The standards shall be consistent with the policies of this title, including sections 1003(a) and 1004(a) of this title.

39 USC 1003, 1004.

"(B) The panel shall, consistent with such standards, make appropriate recommendations concerning the differences between the parties on such policies, schedules, and programs.

"(4) The panel shall make its recommendation no more than 30 days after its appointment, unless the Postal Service and the supervisors' organization agree to a longer period. The panel shall hear from the Postal Service and the supervisors' organization in such a manner as it shall direct. The cost of the panel shall be borne equally by the Postal Service and the supervisors' organization.

Cost of panel.

"(5) Not more than 15 days after the panel has made its recommendation, the Postal Service shall provide the supervisors' organization its final decision on the matters covered by factfinding under this subsection. The Postal Service shall give full and fair consideration to

the panel's recommendation and shall explain in writing any differences between its final decision and the panel's recommendation.

Review panel.

"(g) Not earlier than 3 years after the date of the enactment of this subsection, and from time to time thereafter, the Postal Service or the supervisors' organization may request, by written notice to the Federal Mediation and Conciliation Service and to the other party, the creation of a panel to review the effectiveness of the procedures and the other provisions of this section and the provisions of section 1003 of this title. The panel shall be designated in accordance with the procedure established in subsection (f)(2) of this section. The panel shall make recommendations to the Congress for changes in this title as it finds appropriate.

39 USC 1003.

Recommendations to Congress.

"(h) For purposes of this section—

Definitions.

"(1) 'supervisors' organization' means the organization recognized by the Postal Service under subsection (b) of this section as representing a majority of supervisors; and

"(2) 'members of the supervisors' organization' means employees of the Postal Service who are recognized under an agreement between the Postal Service and the supervisors' organization as represented by such organization.".

Approved August 8, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-234 (Comm. on Post Office and Civil Service).
SENATE REPORT No. 96-856 (Comm. on Governmental Affairs).
CONGRESSIONAL RECORD:
Vol. 125 (1979): July 9, 10, considered and passed House.
Vol. 126 (1980): July 25, considered and passed Senate, amended.
July 31, House concurred in Senate amendments.

Public Law 96-327
96th Congress

An Act

Aug. 8, 1980
[S. 1916]

To authorize operations by the Overseas Private Investment Corporation (OPIC) in the People's Republic of China.

Overseas Private Investment Corporation.
22 USC 2199.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 239 of the Foreign Assistance Act of 1961, as amended, is further amended by striking out "or" before "Romania" and inserting in lieu thereof a comma, and by inserting "or the People's Republic of China" following "Romania".

Approved August 8, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1152 accompanying H.R. 7531 (Comm. on Foreign Affairs).
SENATE REPORT No. 96-840 (Comm. on Foreign Relations).
CONGRESSIONAL RECORD, Vol. 126 (1980):
July 21, considered and passed Senate.
July 28, considered and passed House, in lieu of H.R. 7531.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 16, No. 32:
Aug. 8, Presidential statement.

Public Law 96-328
96th Congress

An Act

To amend title 32, United States Code, to modify the system of accountability and responsibility for property of the United States issued to the National Guard.

Aug. 8, 1980
[H.R. 5748]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subsections (b) and (c) of section 710 of title 32, United States Code, are amended to read as follows:

U.S. property, issuance to National Guard.

"(b) The Secretary of the Army shall prescribe regulations for accounting for property issued by the United States to the Army National Guard and for the fixing of responsibility for that property. The Secretary of the Air Force shall prescribe regulations for accounting for property issued by the United States to the Air National Guard and for the fixing of responsibility for that property. So far as practicable, regulations prescribed under this section shall be uniform among the components of each service.

Regulations.

"(c) Under regulations prescribed by the Secretary concerned under subsection (b), liability for the value of property issued by the United States to the National Guard that is lost, damaged, or destroyed may be charged (1) to a member of the Army National Guard or the Air National Guard when in similar circumstances a member of the Army or Air Force serving on active duty would be so charged, or (2) to a State or Territory, Puerto Rico, the Canal Zone, or the District of Columbia when the property is lost, damaged, or destroyed incident to duty directed pursuant to the laws of, and in support of the authorities of, such jurisdiction. Liability charged to a member of the Army National Guard or the Air National Guard shall be paid out of pay due to the member for duties performed as a member of the National Guard, unless the Secretary concerned shall for good cause remit or cancel that liability. Liability charged to a State or Territory, Puerto Rico, the Canal Zone, or the District of Columbia shall be paid from its funds or from any other non-Federal funds.".

Liability.

(b)(1) The section heading for such section is amended to read as follows:

"§710. Accountability for property issued to the National Guard".

(2) The item relating to such section in the table of sections at the beginning of chapter 7 of title 32, United States Code, is amended to read as follows:

"710. Accountability for property issued to the National Guard.".

Effective date.
32 USC 710
note.

SEC. 2. The amendment made by subsection (a) of the first section of this Act shall apply to liability for property issued by the United States to the National Guard that is lost, damaged, or destroyed on or after October 1, 1980. Liability for such property that is lost, damaged, or destroyed before such date shall be governed by the provisions of section 710 of title 32, United States Code, as in effect on the day before the date of the enactment of this Act.

Approved August 8, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-627 (Comm. on Armed Services).
SENATE REPORT No. 96-849 (Comm. on Armed Services).
CONGRESSIONAL RECORD:
Vol. 125 (1979): Nov. 27, considered and passed House.
Vol. 126 (1980): July 25, considered and passed Senate.

Public Law 96-329
96th Congress

An Act

Aug. 11, 1980
[H.R. 7786]

To amend Public Law 90-331 to provide for personal protection of the spouses of major Presidential and Vice Presidential candidates during the 120-day period before a general Presidential election.

Presidential and Vice Presidential candidates' spouses, personal protection.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the second sentence of subsection (a) of the first section of the Joint Resolution entitled "Joint Resolution to authorize the United States Secret Service to furnish protection to major presidential and vice presidential candidates", approved June 6, 1968 (82 Stat. 170; 18 U.S.C. 3056 note), is amended to read as follows: "Upon the request of a major presidential or vice presidential candidate, as determined by the Secretary after consultation with the advisory committee, the Secretary may authorize the United States Secret Service to furnish protection to the spouse of such major presidential or vice presidential candidate, except that such protection shall not commence more than 120 days before the general Presidential election.".

Approved August 11, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1196 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 126 (1980):
July 28, considered and passed House.
Aug. 1, considered and passed Senate.

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Public Law 96-330
96th Congress

An Act

Aug. 26, 1980
[H.R. 7102]

To amend title 38, United States Code, to promote the recruitment and retention of physicians, dentists, nurses, and other health-care personnel in the Department of Medicine and Surgery of the Veterans' Administration, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) this Act may be cited as the "Veterans' Administration Health-Care Amendments of 1980".

Veterans' Administration Health-Care Amendments of 1980.
38 USC 101 note.

(b) Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

TITLE I—HEALTH-CARE PERSONNEL AMENDMENTS

PART A—PHYSICIANS AND DENTISTS SPECIAL PAY

PERMANENT AUTHORITY FOR PHYSICIANS' AND DENTISTS' COMPARABILITY PAY

38 USC 4104 note.

SEC. 101. Section 6 of the Veterans' Administration Physician and Dentist Pay Comparability Act of 1975 (Public Law 94-123; 38 U.S.C. 4118 note) is amended by striking out "(1)" the first and third places it appears and by striking out paragraph (2) of subsection (a).

REVISION OF SPECIAL PAY FOR PHYSICIANS AND DENTISTS

38 USC 4118.

SEC. 102. (a)(1) Paragraph (1) of subsection (a) of section 4118 is amended—

(A) by striking out "hereunder" and inserting in lieu thereof "to carry out this section";

(B) by inserting "that (except as provided under subsection (d) of this section) is" after "in an amount";

(C) by striking out "$13,500 per annum" and "$6,750 per annum" and inserting in lieu thereof "$22,500 per annum" and "$10,000 per annum", respectively;

(D) by inserting after "Department of Medicine and Surgery" the second place it appears the following: "on a full-time basis (or in the case of a physician employed on a part-time basis, a proportional amount of the maximum amount that would be paid under this section to such physician if such physician were employed on a full-time basis, calculated on the basis of the proportion which the part-time employment of such physician in the Department of Medicine and Surgery bears to full-time employment)"; and

(E) by inserting after "so employed" the following: "on a full-time basis (or in the case of a dentist employed on a part-time basis, a proportional amount of the maximum amount that

would be paid under this section to such dentist if such dentist were employed on a full-time basis, calculated on the basis of the proportion which the part-time employment of such dentist in the Department of Medicine and Surgery bears to full-time employment)".

(2) Notwithstanding subsection (a)(2)(C) of section 4118 of title 38, United States Code, special pay may be paid under such section to a physician or dentist employed by the Department of Medicine and Surgery of the Veterans' Administration who is a reemployed annuitant if such physician or dentist was automatically separated before September 30, 1978, under section 8335(a) of title 5, United States Code, as in effect before such date, for having become 70 years of age. 38 USC 4118 note.

(b) Subsection (b) of such section is amended by striking out "$5,000" both places it appears and inserting in lieu thereof "$7,000". 38 USC 4118.

(c) Subsections (c) and (d) of such section are amended to read as follows:

"(c)(1) In the case of eligible full-time physicians appointed under this chapter, the Administrator shall provide, in addition to the primary special pay provided for in subsection (b)(2) of this section and in accordance with regulations prescribed to carry out this section, incentive special pay of not more than $15,500 to any eligible physician. In prescribing such regulations to carry out this paragraph, the Administrator shall take into account only the following factors and may pay no more than the following per annum amounts of incentive special pay to any full-time physician eligible therefor: Incentive special pay for full-time physicians.

"(A)(i) For full-time status, $6,000.

"(ii) For tenure of service within the Department of Medicine and Surgery—

"(I) of two years but less than five years, $1,000;

"(II) of five years but less than eight years, $2,000; and

"(III) of eight years or more, $3,000.

"(iii) For service in a medical specialty with respect to which the Chief Medical Director has determined, pursuant to such regulations, that there are extraordinary difficulties in the recruitment or retention of qualified physicians, an amount (to be determined by the Chief Medical Director pursuant to such regulations) of not less than $4,000 nor more than $15,500.

"(B) For service—

"(i) as a Service Chief (or in a comparable position as determined by the Chief Medical Director), $9,900;

"(ii) as a Chief of Staff or in an Executive Grade, $12,600;

"(iii) as a Deputy Service Director or in a Director Grade, $13,000;

"(iv) as a Service Director, $13,500;

"(v) as a Deputy Assistant Chief Medical Director, $14,440; or

"(vi) as an Associate Deputy Chief Medical Director or Assistant Chief Medical Director, $15,300.

"(C) For—

"(i) specialty or first board certification, $2,000; or

"(ii) subspecialty or secondary board certification, $2,500.

"(D) For service (i) in a specific geographic location with respect to which the Chief Medical Director has determined, pursuant to such regulations, that there are extraordinary difficulties in the recruitment or retention of qualified physicians in the specific category of physicians, or (ii) in the Central Office of the Department of Medicine and Surgery, an amount (to

be determined by the Chief Medical Director pursuant to such regulations) of not less than $2,000 nor more than $5,000.

Incentive special pay for dentists.

"(2) In the case of eligible full-time dentists appointed under this chapter, the Administrator shall provide, in addition to the primary special pay provided for in subsection (b)(2) of this section and in accordance with regulations prescribed to carry out this section, incentive special pay of not more than $7,500 to any eligible dentist. In prescribing such regulations to carry out this paragraph, the Administrator shall take into account only the following factors and may pay no more than the following per annum amounts of incentive special pay to any full-time dentist eligible therefor:

"(A)(i) For full-time status, $1,000.

"(ii) For tenure of service within the Department of Medicine and Surgery—

"(I) of two years but less than seven years, $500; and

"(II) of seven years or more, $1,000.

"(iii) For service in a dental specialty with respect to which the Chief Medical Director has determined, pursuant to such regulations, that there are extraordinary difficulties in the recruitment or retention of qualified dentists, an amount (to be determined by the Chief Medical Director pursuant to such regulations) of not less than $2,000 nor more than $7,500.

"(B) For service—

"(i) as a Service Chief (or in a comparable position as determined by the Chief Medical Director), $2,750;

"(ii) as a Chief of Staff or in an Executive Grade, $3,500;

"(iii) as a Deputy Service Director or in a Director Grade, $3,625;

"(iv) as a Service Director, $3,750;

"(v) as a Deputy Assistant Chief Medical Director, $4,000, or

"(vi) as an Assistant Chief Medical Director, $4,250.

"(C) For service in a specific geographic location with respect to which the Chief Medical Director has determined, pursuant to such regulations, that there are extraordinary difficulties in the recruitment or retention of qualified dentists in the specific category of dentists, an amount (to be determined by the Chief Medical Director pursuant to such regulations) of not less than $1,750 nor more than $2,500.

Incentive special pay for part-time physicians.

"(3) In the case of eligible part-time physicians appointed under this chapter, the Administrator shall provide, in addition to the primary special pay provided for in subsection (b)(3) of this section and in accordance with regulations prescribed to carry out this section, incentive special pay of not more than $15,500 to any eligible physician. In prescribing such regulations to carry out this paragraph, the Administrator shall take into account only the following factors and may pay no more than a proportional amount of the following per annum amounts of incentive special pay to any part-time physician eligible therefor, which proportional amount shall be calculated on the basis of the proportion which the part-time employment in the Department of Medicine and Surgery of such physician bears to full-time employment:

"(A)(i) For tenure of service within the Department of Medicine and Surgery—

"(I) of more than two years but less than five years, $750;

"(II) of five years but less than eight years, $1,500; and

"(III) of eight years or more, $2,250.

"(ii) For service in a medical specialty with respect to which the Chief Medical Director has determined, pursuant to such regulations, that there are extraordinary difficulties in the recruitment or retention of qualified physicians, an amount (to be determined by the Chief Medical Director pursuant to such regulations) of not less than $3,000 nor more than $12,375.

"(B) For service—

"(i) as a Service Chief (or in a comparable position as determined by the Chief Medical Director), $7,220; or

"(ii) as a Chief of Staff or in an Executive Grade, $9,190.

"(C) For—

"(i) specialty or first board certification, $1,500; or

"(ii) subspecialty or secondary board certification, $1,875.

"(D) For service (i) in a specific geographic location with respect to which the Chief Medical Director has determined, pursuant to such regulations, that there are extraordinary difficulties in the recruitment or retention of qualified physicians in the specific category of physicians, or (ii) in the Central Office of the Department of Medicine and Surgery, an amount (to be determined by the Chief Medical Director pursuant to such regulations) of not less than $1,500 nor more than $4,000.

Incentive special pay for part-time dentists.

"(4) In the case of eligible part-time dentists appointed under this chapter, the Administrator shall provide, in addition to the primary special pay provided for in subsection (b)(3) of this section and in accordance with regulations prescribed to carry out this section, incentive special pay of not more than $7,500 to any eligible dentist. In prescribing such regulations to carry out this paragraph, the Administrator shall take into account only the following factors and may pay no more than a proportional amount of the following per annum amounts of incentive special pay to any dentist eligible therefor, which proportional amount shall be calculated on the basis of the proportion which the part-time employment in the Department of Medicine and Surgery of such dentist bears to full-time employment:

"(A)(i) For tenure of service within the Department of Medicine and Surgery—

"(I) of more than two years but less than seven years, $500; and

"(II) of seven years or more, $1,000.

"(ii) For service in a dental specialty with respect to which the Chief Medical Director has determined, pursuant to such regulations, that there are extraordinary difficulties in the recruitment or retention of qualified dentists, an amount (to be determined by the Chief Medical Director pursuant to such regulations) of not less than $1,500 nor more than $5,625.

"(B) For service—

"(i) as a Service Chief (or in a comparable position as determined by the Chief Medical Director), $2,750; or

"(ii) as a Chief of Staff or in an Executive Grade, $3,500.

"(C) For service in a specific geographic location with respect to which the Chief Medical Director has determined, pursuant to such regulations, that there are extraordinary difficulties in the recruitment or retention of qualified dentists in a specific category of dentists, an amount (to be determined by the Chief Medical Director pursuant to such regulations) of not less than $1,310 nor more than $1,875.

Exceptions.

"(5)(A) Except as provided in subparagraph (B) of this paragraph, a physician or dentist may not be provided incentive special pay under

both clauses (A) and (B) of paragraph (1), (2), (3), or (4) (whichever is applicable) of this subsection.

"(B)(i) A physician or dentist serving as a Service Chief (or in a comparable position as determined by the Chief Medical Director) on a full-time basis may be provided incentive special pay under subclauses (i) and (iii) of clause (A) as well as under clause (B) of paragraph (1) or (2) (whichever is applicable) of this subsection.

"(ii) A physician or dentist serving as a Chief of Staff on a full-time basis may be provided incentive special pay under clause (A)(i) as well as under clause (B) of paragraph (1) or (2) (whichever is applicable) of this subsection.

"(d) In determining—

"(1) the total amount of special pay provided under this section to any physician or dentist for the purpose of determining the applicability to the special pay of such physician or dentist of the limitation specified in subsection (a) of this section on the total amount of such special pay; and

"(2) the total amount of incentive special pay provided under subsection (c) of this section to any physician or dentist for the purpose of determining the applicability to the incentive special pay of such physician or dentist of the limitation specified in such subsection on the total amount of such incentive special pay,

there shall be excluded any special pay provided to such physician or dentist under subsection (c)(1)(D), (c)(2)(C), (c)(3)(D), or (c)(4)(C) of this section for service in certain geographic locations.".

38 USC 4118 (d) Subsection (e)(1) of such section is amended by striking out the third sentence thereof.

Effective date 38 USC 4118 note (e) The amendments made by this section shall apply with respect to pay periods beginning after December 31, 1980.

CREDITING OF SPECIAL PAY FOR RETIREMENT AND INSURANCE PURPOSES

38 USC 4118 SEC. 103. (a) Section 4118(f) is amended—

(1) by striking out "Any" and inserting in lieu thereof "(1) Except as provided in paragraph (2) of this subsection, any";

(2) by striking out "81, 83, or 87" and inserting in lieu thereof "81 or 83"; and

(3) by adding at the end thereof the following new paragraphs:

Annuity computation 5 USC 8301 *et seq* "(2) Additional compensation paid as special pay under this section after September 30, 1980, to any full-time employee shall be included in basic pay for purposes of chapter 83 of title 5. Notwithstanding the preceding sentence, special pay paid to any full-time employee after September 30, 1980, shall be included in average pay, as defined in section 8331(4) of such title, for the purposes of computing an annuity under such chapter only if—

5 USC 8331 "(A) the annuity is paid under section 8337 of title 5 or under subsection (d) or (e) of section 8341 of such title; or

5 USC 8341 "(B) the employee has completed not less than 15 years of full-time service in the Department of Medicine and Surgery (except that, regardless of the length of such employee's service, no special pay may be included in average pay in computing an annuity that commences before October 1, 1985, and only one-half of any special pay paid after September 30, 1980, may be included in average pay in computing an annuity that commences on or after October 1, 1985, but before October 1, 1990).

"(3) Any additional compensation provided as special pay under this section shall be considered as annual pay for the purposes of

chapter 87 of title 5, relating to life insurance for Federal employees.". 5 USC 8701 *et seq.*

(b)(1) Not later than January 1, 1981, the Administrator of Veterans' Affairs shall notify each employee of the Veterans' Administration who on October 1, 1980, was a full-time physician or dentist in the Department of Medicine and Surgery of the provisions of paragraph (2) of section 4118(f) of title 38, United States Code, as added by subsection (a), and include in such notice an explanation of the provisions of such paragraph and of the right of such employee to make an election under paragraph (2). Election of additional compensation, notification. 38 USC 4118 note.

(2) Each employee described in paragraph (1) may elect not to have additional compensation provided such employee as special pay under section 4118 of such title included as basic pay (as provided for under paragraph (2) of section 4118(f) of such title, as added by subsection (a)) for purposes of chapter 83 of title 5, United States Code. Any such election shall be in writing and shall be transmitted to the Administrator of Veterans' Affairs not later than April 1, 1981. 38 USC 4118. 5 USC 8301 *et seq.* Transmittal to VA Administrator.

REPORTS ON ADEQUACY OF SPECIAL PAY FOR PHYSICIANS AND DENTISTS

SEC. 104. (a) Section 4118 (as amended by sections 102 and 103) is further amended by adding at the end the following new subsection: 38 USC 4118.

"(g)(1) It is the policy of Congress to assure that the levels of total pay for Veterans' Administration physicians and dentists are fixed at levels reasonably comparable (A) with the levels of total pay of physicians and dentists employed by or serving in other departments and agencies of the Federal Government, and (B) with the income of non-Federal physicians and dentists, so as to make possible the recruitment and retention of a well-qualified employee work force of physicians and dentists capable of providing quality care for eligible veterans.

"(2) To assist the Congress and the President in carrying out the policy stated in paragraph (1) of this subsection, the Administrator shall—

"(A) define the bases for pay distinctions, if any, among various categories of physicians and dentists, including between physicians and dentists employed by the Veterans' Administration and physicians and dentists employed by other departments and agencies of the Federal Government and between all Federal sector and non-Federal sector physicians and dentists;

"(B) obtain measures of income from the employment or practice of physicians and dentists in the non-Veterans' Administration sector, including Federal and non-Federal sectors, for use as guidelines for setting and periodically adjusting the amounts of special pay for Veterans' Administration physicians and dentists;

"(C) submit a report to the President, on such date as the President may designate but not later than December 31, 1982, and once every two years thereafter, recommending appropriate amounts of special pay to carry out the policy set forth in paragraph (1) of this subsection with respect to the pay of Veterans' Administration physicians and dentists; and Report to President.

"(D) include in such recommendations, when considered appropriate and necessary by the Administrator, modifications of the special pay levels set forth in this section (i) whenever the Veterans' Administration is unable to recruit or retain a sufficient work force of well-qualified physicians and dentists because the incomes of non-Veterans' Administration physicians and

dentists performing comparable types of duties are significantly in excess of the levels of total pay (including basic pay and special pay) of Veterans' Administration physicians and dentists, or (ii) whenever other extraordinary circumstances are such that special pay levels are needed to recruit or retain a sufficient number of well-qualified physicians and dentists.

Presidential pay recommendations.

"(3) The President shall include in the Budget next transmitted to the Congress under section 201 of the Budget and Accounting Act, 1921 (31 U.S.C. 11), after the submission of each report of the Administrator under paragraph (2)(C) of this subsection recommendations with respect to the exact rates of special pay for physicians and dentists under this section.

Report to congressional committees.

"(4) Not later than April 30 of each year, the Administrator shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report regarding the implementation of this section. Each such report shall include—

"(A) a review of the implementation of this section (including the Administrator's and Chief Medical Director's actions, findings, recommendations, and other activities under this section) to date for the fiscal year during which the report is submitted and for such portion of the preceding fiscal year as was not included in the previous annual report; and

"(B) a plan in connection with the implementation of this section for the remainder of the fiscal year during which the report is submitted and for the succeeding fiscal year.".

Repeal.
38 USC 4118 note.

(b) Section 3 of the Veterans' Administration Physician and Dentist Pay Comparability Act of 1975 (Public Law 94-123; 89 Stat. 673) is repealed.

HEALTH-CARE PROFESSIONALS AND DIRECTORS OF MEDICAL FACILITIES EXEMPTED FROM SENIOR EXECUTIVE SERVICE

38 USC 4101.

SEC. 105. (a) Section 4101 is amended by adding at the end thereof the following new subsection:

"(e) Physicians, dentists, nurses, and other health-care professionals employed by the Department of Medicine and Surgery and appointed under section 4103, 4104(1), or 4114 of this chapter and persons appointed under section 4103(a)(8) of this chapter are not subject to the provisions of section 413 of the Civil Service Reform Act of 1978 or the following provisions of title 5: subchapter II of chapter 31, subchapter VIII of chapter 33, subchapter V of chapter 35, subchapter II of chapter 43, section 4507, subchapter VIII of chapter 53, and subchapter V of chapter 75.".

38 USC 4103, 4104, 4114.
5 USC 3133 note.
5 USC 3131, 3391, 3591, 4311, 4507, 5381, 7541.

(b) Section 4103(a) is amended by redesignating clause (8) as clause (9) and by inserting after clause (7) the following new clause (8):

38 USC 4103.

"(8) Such directors of hospitals, domiciliary facilities, medical centers, and outpatient facilities as may be appointed by the Administrator upon the recommendation of the Chief Medical Director.".

38 USC 4107.

(c) Section 4107(c) is amended by inserting "(1)" after "(c)" and by adding at the end the following new paragraphs:

"(2) Notwithstanding any other provision of this title, the terms and conditions of employment of any person to whom paragraph (1) of this subsection applies shall (except as provided in paragraph (3) of this subsection) be the same as those applicable under this title to a physician serving as a director of a hospital, domiciliary facility, medical center, or outpatient facility.

"(3) Notwithstanding the provisions of section 4101(e) of this title, any person to whom paragraph (1) of this subsection applies shall be deemed to be a career appointee for the purposes of section 4507 of title 5.". *Ante*, p. 1036.

PART B—MISCELLANEOUS IMPROVEMENTS IN PERSONNEL ADMINISTRATION

RATES OF PAY FOR TRAVEL AND OVERTIME FOR NURSES

SEC. 111. Section 4107(e) is amended— 38 USC 4107.

(1) by adding at the end of paragraph (5) the following new sentence: "For the purposes of this paragraph, the period of a nurse's officially ordered or approved travel away from such nurse's duty station may not be considered to be hours of service unless—

"(A) such travel occurs during such nurse's tour of duty; or

"(B) such travel (i) involves the performance of services while traveling, (ii) is incident to travel that involves the performance of services while traveling, (iii) is carried out under arduous conditions as determined by the Administrator, or (iv) results from an event which could not be scheduled or controlled administratively.";

(2) by inserting "or on a holiday designated by Federal statute or Executive order" in paragraph (8) after "regular hours"; and

(3) by adding at the end the following new paragraph:

"(10) Notwithstanding any other provision of law, if the Administrator determines it to be necessary in order to obtain or retain the services of nurses entitled to additional pay under this subsection, the Administrator may increase the amount of additional pay authorized under this subsection to be paid to nurses at any specific Veterans' Administration health-care facility in order to provide additional pay in an amount competitive with, but not exceeding, the amount of the same type of pay that is paid to the same category of nurses at non-Federal health-care facilities in the same geographic area as such Veterans' Administration health-care facility (as determined by a reasonably representative sampling of such non-Federal facilities).".

ADMINISTRATIVE ADJUSTMENTS IN RATES OF BASIC PAY

SEC. 112. Section 4107 is amended by adding at the end the following new subsection:

"(g)(1) Notwithstanding any other provision of law but subject to paragraphs (2), (3), and (4) of this subsection, when the Administrator determines it to be necessary in order to obtain or retain the services—

"(A) of physicians, dentists, podiatrists, optometrists, nurses, physician assistants, or expanded-function dental auxiliaries appointed under this subchapter; or

"(B) of health-care personnel who—

"(i) are employed in the Department of Medicine and Surgery (other than administrative, clerical, and physical plant maintenance and protective services employees);

"(ii) are paid under the General Schedule pursuant to section 5332 of title 5;

"(iii) are determined by the Administrator to be providing either direct patient-care services or services incident to direct patient-care services; and

"(iv) would not otherwise be available to provide medical care and treatment for veterans,

Basic pay rate increase.

the Administrator may increase the minimum, intermediate, or maximum rates of basic pay authorized under applicable statutes and regulations. Any increase in such rates of basic pay may be made on a nationwide, local, or other geographic basis, for one or more of the grades listed in the schedules in subsection (b)(1) of this section, for one or more of the health personnel fields within such grades, or for one or more of the grades of the General Schedule under section 5332 of such title.

5 USC 5332.

"(2) Increases in rates of basic pay may be made under paragraph (1) of this subsection only in order—

"(A) to provide pay in an amount competitive with, but not exceeding, the amount of the same type of pay paid to the same category of health-care personnel at non-Federal health-care facilities in the same labor market;

"(B) to achieve adequate staffing at particular facilities; or

"(C) to recruit personnel with specialized skills, especially those with skills which are especially difficult or demanding.

"(3) The amount of any increase under paragraph (1) of this subsection in the maximum rate for any grade may not (except in the case of nurse anesthetists) exceed the amount by which the maximum for such grade (under applicable provisions of law other than this subsection) exceeds the minimum for such grade (under applicable provisions of law other than this subsection), and the maximum rate as so increased may not exceed the rate paid for individuals serving as Assistant Chief Medical Director.

Increase denial.

"(4) In the exercise of the authority provided in paragraph (1) of this subsection to increase the rates of basic pay for any category of personnel not appointed under this subchapter, the Administrator shall, not less than ninety days prior to the effective date of a proposed increase, notify the President of the Administrator's intention to provide such an increase. If, prior to such effective date, the President disapproves such increase and provides the appropriate committees of the Congress with a written statement of the President's reasons for such disapproval, such proposed increase shall not take effect.".

CHIEFS OF STAFF REQUIRED TO BE EMPLOYED ON A FULL-TIME BASIS

38 USC 4108.

SEC. 113. (a) Section 4108 is amended by striking out subsections (b) and (c) and inserting in lieu thereof the following:

"(b) Any person serving as a Chief of Staff of a Veterans' Administration health-care facility shall be appointed on a full-time basis.

"(c) As used in this section:

"Affiliated institution."

"(1) The term 'affiliated institution' means any medical school or other institution of higher learning with which the Administrator has a contract or agreement as referred to in section 4112(b) of this title for the training or education of health personnel.

Post, p. 1039.

"Remuneration."

"(2) The term 'remuneration' means the receipt of any amount of monetary benefit from any non-Veterans' Administration source in payment for carrying out any professional responsibilities.".

38 USC 4108 note.

(b) Any individual who on the date of the enactment of this Act is serving as a Chief of Staff of a Veterans' Administration health-care facility on less than full-time basis may continue to serve in that capacity on a part-time basis so long as such individual's proportion

of full-time service is not less than the proportion of full-time service in which such individual was serving on such date of enactment.

RETIREMENT CREDIT FOR PART-TIME EMPLOYEES

SEC. 114. The text of section 4109 is amended to read as follows: 38 USC 4109.

"(a) Except as provided in subsection (b) of this section, persons appointed to the Department of Medicine and Surgery shall be subject to the provisions of and entitled to benefits under chapter 83 of title 5. 5 USC 8301 *et seq.*

"(b) Notwithstanding any other provision of law, an individual retiring on or after October 1, 1981, who served at any time in a position in the Department of Medicine and Surgery to which such individual was appointed under this subchapter shall receive service credit for purposes of section 8339 of title 5 for any period of service in such Department served on less than a full-time basis on a proportionate basis equal to the fraction that such service bears to full-time service. In computing the annuity of any individual whose service is so credited, the full annual rate of basic pay shall be deemed to be the individual's rate of basic pay for the purpose of determining average pay, as defined by section 8331(4) of title 5.".

VETERANS' ADMINISTRATION REPRESENTATIVES ON DEANS' COMMITTEES

SEC. 115. Section 4112(b) is amended by inserting "(including appropriate representation from the full-time staff)" after "Veterans' Administration". 38 USC 4112.

RELATIONSHIP BETWEEN TITLE 38 MEDICAL PERSONNEL SYSTEM PROVISIONS AND OTHER PROVISIONS OF LAW

SEC. 116. (a)(1) Subchapter I of chapter 73, as amended by section 116, is amended by adding at the end thereof the following new section: 38 USC 4119.

"§ 4119. Relationship between this subchapter and other provisions of law

"Notwithstanding any other provision of law, no provision of title 5 or any other law pertaining to the civil service system which is inconsistent with any provision of this subchapter shall be considered to supersede, override, or otherwise modify such provision of this subchapter except to the extent that such provision of title 5 or of such other law specifically provides, by specific reference to a provision of this subchapter, for such provision to be superseded, overridden, or otherwise modified.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 4118 the following new item:

"4119. Relationship between this subchapter and other provisions of law.".

(b) Section 4114 is amended by adding at the end thereof the following new subsection: 38 USC 4114.

"(g) In accordance with the provisions of section 4119 of this title, the provisions of chapter 34 of title 5 shall not apply to part-time appointments under this section.". *Supra.* 5 USC 3401 *et seq.*

STUDY OF PERSONNEL NEEDS OF VETERANS' ADMINISTRATION HEALTH-CARE SYSTEM

SEC. 117. (a) In order to evaluate the need for, and the likely impact on the ability of the Veterans' Administration to meet most effectively the personnel needs of the Veterans' Administration health-care program of, the conversion or non-conversion of employees of the Veterans' Administration's Department of Medicine and Surgery who are providing direct patient-care services or services incident to direct patient-care services (as determined by the Administrator of Veterans' Affairs for the purposes of paragraph (1) of section 4107(g) of title 38, United States Code, as added by section 112) to the pay schedules and other administrative provisions of chapter 73 of title 38, United States Code, the Administrator of Veterans' Affairs shall conduct a study to determine (1) which, if any, of the categories of such employees should be so converted in order to improve patient care, alleviate recruitment and retention problems regarding such personnel, and improve employee morale, and (2) the desirability of making any such categories of personnel which are not so converted eligible for premium pay under the new paragraph (10) which would have been added to section 4107(e) of such title by the amendment of the Senate to the bill H.R. 7102, Ninety-sixth Congress, agreed to by the Senate on June 5, 1980, and the impact of making such categories of personnel eligible for such pay under such paragraph.

38 USC 4101 *et seq.*

Ante, p. 1030.

(b) Not later than the end of the eighteen-month period beginning on the date of the enactment of this Act, the Administrator of Veterans' Affairs shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the results of such study, together with any recommendations for administrative or legislative action, or both, that the Administrator considers appropriate based on the results of such study and other pertinent information.

Report to congressional committees.

STUDY AND PILOT PROGRAM ON NURSE RECRUITMENT AND RETENTION

SEC. 118. (a) In order to evaluate the effectiveness of various actions in enabling the Veterans' Administration to recruit and retain sufficient qualified nursing personnel (including licensed practical or vocational nurses and nursing assistants) capable of providing quality care for eligible veterans in Veterans' Administration health-care facilities, the Administrator of Veterans' Affairs, in consultation with the Chief Medical Director of the Veterans' Administration, shall conduct a pilot program and study for a period of not less than twenty-four and not more than thirty-six months, in not less than six geographic areas in which the Veterans' Administration has experienced difficulties in recruiting and retaining such sufficient qualified personnel. In the course of such study, the Administrator shall take various administrative actions to overcome such difficulties.

38 USC 4104 note.

(b) Not later than the end of the forty-two-month period beginning on the date of the enactment of this Act, the Administrator of Veterans' Affairs shall submit to the Congress a report on the results of such program and study, including an evaluation of the cost factors associated with each alternative administrative action on an annual basis and the impact on the recruitment and retention of nursing personnel at each facility involved, together with any recommendations for administrative or legislative action, or both, that the Administrator considers appropriate based on the results of such program and study and other pertinent information.

Report to Congress.

(c) The Administrator of Veterans' Affairs shall submit a report on the implementation of such program and the progress of such study to the Committees on Veterans' Affairs of the Senate and House of Representatives not later than six months after the date of the enactment of this Act. Such report shall include a report on the formulation of regulations to carry out such program and on the status of the implementation of such program. Report to congressional committees.

TITLE II—VETERANS' ADMINISTRATION HEALTH PROFESSIONAL SCHOLARSHIP PROGRAM

ESTABLISHMENT OF HEALTH PROFESSIONAL SCHOLARSHIP PROGRAM

SEC. 201. (a)(1) Chapter 73 is amended by adding at the end thereof the following new subchapter:

"SUBCHAPTER IV—VETERANS' ADMINISTRATION HEALTH PROFESSIONAL SCHOLARSHIP PROGRAM

"§ 4141. Establishment of program; purpose; duration 38 USC 4141.

"(a) There is hereby established a program to be known as the Veterans' Administration Health Professional Scholarship Program (hereinafter in this subchapter referred to as the 'Scholarship Program'). The purpose of the Scholarship Program is to assist in providing an adequate supply of trained physicians and nurses for the Veterans' Administration and for the Nation and, if needed by the Veterans' Administration, other health-care professionals appointed under subchapter I of this chapter. 38 USC 4101.

"(b) The Administrator may not furnish scholarships to new participants in the Scholarship Program after the last day of the tenth fiscal year beginning after the first such scholarship is approved by the Administrator.

"§ 4142. Eligibility; application; written contract 38 USC 4142.

"(a) To be eligible to participate in the Scholarship Program, an individual must—

"(1) be accepted for enrollment, or be enrolled, as a full-time student (A) in an accredited (as determined by the Administrator) educational institution in a State, and (B) in a course of training offered by such institution and approved by the Administrator, leading to a degree in medicine, osteopathy, dentistry, podiatry, optometry, or nursing or a course of training to become a physician assistant or expanded-function dental auxiliary;

"(2) submit an application to the Administrator for participation in the Scholarship Program;

"(3) sign and submit to the Administrator, at the time of submission of such application, a written contract (described in subsection (e) of this section) to accept payment of a scholarship and to serve a period of obligated service as provided in section 4143 of this title; and

"(4) at the time of submission of such application, not be obligated under any other Federal program to perform service after completion of the course of study or program of such individual referred to in clause (1) of this subsection.

"(b)(1) In distributing application forms and contract forms to individuals desiring to participate in the Scholarship Program, the Administrator shall include with such forms— Application and contract forms.

"(A) a fair summary of the rights and liabilities of an individual whose application is approved (and whose contract is accepted) by the Administrator, including in the summary a clear explanation of the damages to which the United States is entitled under section 4144 of this title if the individual breaches the contract; and

"(B) a full description of the terms and conditions that would apply to the individual's participation in the Scholarship Program and service in the Department of Medicine and Surgery.

"(2) The Administrator shall make such application forms, contract forms, and other information available to individuals desiring to participate in the Scholarship Program on a date sufficiently early to allow such individuals adequate time to prepare and submit such forms.

Selections.

"(c)(1) In selecting applicants for acceptance in the Scholarship Program, the Administrator shall give priority to the applications of individuals who have previously received scholarships under the Scholarship Program.

Scholarship award, notification of congressional committees.

"(2) Before awarding the initial scholarship in any course of training other than in medicine or nursing, the Administrator, not less than 60 days before awarding such scholarship, shall notify the Committees on Veterans' Affairs of the Senate and House of Representatives of the Administrator's intent to award a scholarship in such course of training and of the reasons why the award of scholarships in such course of training is necessary to assist in providing for the Veterans' Administration an adequate supply of personnel in the health profession concerned.

"(d)(1) An individual becomes a participant in the Scholarship Program only upon the Administrator's approval of the individual's application submitted under subsection (a)(2) of this section and the Administrator's acceptance of the contract signed by the individual under subsection (a)(3) of this section.

"(2) The Administrator shall provide written notice to an individual promptly upon the Administrator's approval under paragraph (1) of this subsection of the individual's participation in the Scholarship Program.

Written contract, contents.

"(e) The written contract (referred to in this subchapter) between the Administrator and a participant in the Scholarship Program shall contain—

"(1) an agreement that—

"(A) subject to clause (2) of this subsection, the Administrator agrees (i) to provide the participant with a scholarship (described in subsection (f) of this section) for from one to four school years during which period the participant is pursuing a course of training described in subsection (a)(1)(B) of this section, and (ii) to afford the participant the opportunity for employment in the Department of Medicine and Surgery (subject to the availability of appropriated funds for such purpose and other qualifications established in accordance with section 4105 of this title); and

38 USC 4105.

Participant agreement.

"(B) subject to clause (2) of this subsection, the participant agrees—

"(i) to accept such a scholarship;

"(ii) to maintain enrollment and attendance in a course of training described in subsection (a)(1)(B) of this section until the participant completes the course of training;

"(iii) while enrolled in such course of training, to maintain an acceptable level of academic standing (as determined by the educational institution offering such course of training under regulations prescribed by the Administrator);

"(iv) to serve as a full-time employee in the Department of Medicine and Surgery for a period of time (hereinafter in this subchapter referred to as the 'period of obligated service') equal to the greater of—

"(I) one calendar year for each school year for which the participant was provided a scholarship under the Scholarship Program, or

"(II) two calendar years; and

"(v) if the participant's period of obligated service is deferred under section 4143(b)(3)(A) of this title, to serve any additional period of obligated service prescribed by the Administrator under section 4143(b)(4)(B) of this title;

"(2) a provision that any financial obligation of the United States arising out of a contract entered into under this subchapter, and any obligation of the participant which is conditioned thereon, is contingent upon funds being appropriated for scholarships under this subchapter;

"(3) a statement of the damages to which the United States is entitled under section 4144 of this title for the participant's breach of the contract; and

"(4) such other statements of the rights and liabilities of the Administrator and of the participant as may be appropriate and consistent with the provisions of this subchapter.

Scholarships.

"(f)(1) A scholarship provided to a participant in the Scholarship Program for a school year under a written contract under the Scholarship Program shall consist of—

"(A) payment to, or (in accordance with paragraph (2) of this subsection) on behalf of, the participant of the amount of—

"(i) the tuition of the participant in such school year; and

"(ii) other reasonable educational expenses, including fees, books, and laboratory expenses; and

Monthly stipend.

"(B) payment to the participant of a stipend of not in excess of $485 per month (adjusted in accordance with paragraph (3) of this subsection) for each of the 12 consecutive months beginning with the first month of such school year.

"(2) The Administrator may contract with an educational institution in which a participant in the Scholarship Program is enrolled for the payment to the educational institution of the amounts of tuition and other reasonable educational expenses described in paragraph (1)(A) of this subsection. Payment to such an educational institution may be made without regard to section 3648 of the Revised Statutes of the United States (31 U.S.C. 529).

Stipend increases.

"(3) The amount of the monthly stipend, specified in paragraph (1)(B) of this subsection and as previously adjusted (if at all) in accordance with this paragraph, shall be increased by the Administrator for each school year ending in a fiscal year beginning after September 30, 1980, by an amount (rounded to the next highest multiple of $1) equal to the amount of such stipend multiplied by the overall percentage (as set forth in the report transmitted to the Congress under section 5305 of title 5) of the adjustment (if such adjustment is an increase) in the rates of pay under the General

Schedule made effective in the fiscal year in which such school year ends.

"(g) Notwithstanding any other provision of law, participants in the Scholarship Program shall not be considered to be employees of the Federal Government and shall not be counted against any employment ceiling affecting the Department of Medicine and Surgery while they are undergoing a course of training prior to engaging in deferred internship, residency, or other advanced clinical training.

Report to Congress.

"(h) The Administrator shall report to Congress not later than March 1 of each year—

"(1) the number of students receiving scholarships under the Scholarship Program and the number of students enrolled in each type of health profession training;

"(2) the educational institutions providing such training;

"(3) the number of applications filed, by health profession category, under this section during the school year beginning in such year and the total number of such applications so filed for all years in which the Scholarship Program has been in existence;

"(4) the number of scholarships accepted, by health profession category, during such school year and the number, by health profession category, which were offered and not accepted, together with a summary of the reasons that such scholarships were not accepted; and

"(5) the amount of tuition and other expenses paid, by health profession category, in the aggregate and at each educational institution for the school year beginning in such year and for prior school years.

Regulations.

"(i) The Administrator shall prescribe regulations to carry out the Scholarship Program.

38 USC 4143.

"§ 4143. Obligated service

"(a) Each participant in the Scholarship Program shall provide service in the full-time clinical practice of such participant's profession or in another health-care position, in an assignment or location as determined by the Administrator, as a full-time employee of the Veterans' Administration for the period of obligated service provided in the contract of such participant entered into under section 4142 of this title.

"(b)(1) Not later than 60 days prior to the date described in paragraph (3) of this subsection with respect to a participant in the Scholarship Program, the Administrator shall notify the participant of the date described in such paragraph for the beginning of such participant's period of obligated service.

"(2) The Administrator shall appoint each participant in the Department of Medicine and Surgery as soon as possible after the date described in paragraph (3) of this subsection.

Deferral.

"(3)(A)(i) With respect to a participant receiving a degree from a school of medicine, osteopathy, dentistry, optometry, or podiatry, the date for the beginning of the participant's period of obligated service is the date upon which the participant becomes licensed to practice medicine, osteopathy, dentistry, optometry, or podiatry, as the case may be, in a State, except that the Administrator may, at the request of such participant, defer such date until the end of the period of time required for the participant to complete an internship or residency or other advanced clinical training. If the participant requests such a deferral, the Administrator shall notify the participant that such

deferral could lead to an additional period of obligated service in accordance with paragraph (4) of this subsection.

"(ii) No such period of internship or residency or other advanced clinical training shall be counted toward satisfying a period of obligated service under this subchapter.

"(B) With respect to a participant receiving a degree from a school of nursing, the date for the beginning of the participant's period of obligated service is the date upon which the participant becomes registered as a graduate nurse in a State.

"(C) With respect to a participant receiving a degree from an institution other than a school of medicine, osteopathy, dentistry, optometry, podiatry, or nursing, the date for the beginning of the participant's period of obligated service is the date upon which the participant completes the course of training leading to such degree.

"(4) Any participant whose period of obligated service is deferred under paragraph (3)(A) of this subsection—

"(A) shall be required to undertake internship or residency or other advanced clinical training in an accredited program in an educational institution which is an affiliated institution (as defined in section 4108(c)(1) of this title) and with respect to which the affiliation agreement provides that all or part of the internship or residency or other advanced clinical training will be undertaken in a Veterans' Administration health-care facility; and

Ante, p. 1038.

"(B) may, at the discretion of the Administrator and upon the recommendation of the Chief Medical Director, incur an additional period of obligated service—

"(i) at the rate of one-half of a calendar year for each year of internship or residency or other advanced clinical training (or a proportionate ratio thereof), if the internship, residency, or advanced clinical training is in a medical specialty necessary to meet the health care requirements of the Veterans' Administration (as determined under regulations prescribed by the Administrator); or

"(ii) at the rate of three-quarters of a calendar year for each year of internship or residency or other advanced clinical training (or a proportionate ratio thereof), if the internship, residency, or advanced clinical training is not in a medical specialty necessary to meet the health care requirements of the Veterans' Administration (as determined under regulations prescribed by the Administrator).

"(c) A participant in the Scholarship Program shall be considered to have begun serving a period of obligated service on the date such participant, in accordance with subsection (a) of this section, is appointed under this chapter as a full-time employee in the Department of Medicine and Surgery.

38 USC 4144.

"§ 4144. Breach of contract; liability; waiver

"(a) A participant in the Scholarship Program (other than a participant described in subsection (b) of this section) who fails to accept payment, or instructs the educational institution in which the participant is enrolled not to accept payment, in whole or in part, of a scholarship under the contract entered into under section 4142 of this title, shall, in addition to any period of obligated service or other obligation or liability under the contract, be liable to the United States for the amount of $1,500 as liquidated damages.

"(b) A participant in the Scholarship Program who—

"(1) fails to maintain an acceptable level of academic standing in the educational institution in which the participant is enrolled (such level determined by the educational institution under regulations prescribed by the Administrator);

"(2) is dismissed from such educational institution for disciplinary reasons;

"(3) voluntarily terminates the course of training in such educational institution before the completion of such course of training; or

"(4) fails to become licensed to practice medicine, osteopathy, dentistry, podiatry, or optometry in a State, fails to become registered as a graduate nurse in a State, or fails to meet any applicable licensure requirement in the case of a physician assistant or expanded-function dental auxiliary, during a period of time determined under regulations prescribed by the Administrator;

in lieu of any service obligation arising under such contract, shall be liable to the United States for the amount which has been paid to or on behalf of the participant under the contract.

Payment of damages.

"(c) If a participant in the Scholarship Program breaches the written contract by failing (for any reason) to complete such participant's period of obligated service, the United States shall be entitled to recover from the participant an amount determined in accordance with the following formula:

$$A = 3\phi \left(\frac{t-s}{t}\right)$$

in which 'A' is the amount the United States is entitled to recover; 'ϕ' is the sum of the amounts paid under this subchapter or on behalf of the participant and the interest on such amounts which would be payable if at the time the amounts were paid they were loans bearing interest at the maximum legal prevailing rate, as determined by the Treasurer of the United States; 't' is the total number of months in the participant's period of obligated service, including any additional period of obligated service in accordance with section 4143(b)(4)(B) of this subchapter; and 's' is the number of months of such period served by the participant in accordance with section 4143 of this title. Any amount of damages which the United States is entitled to recover under this section will, within the one-year period beginning on the date of the breach of the written contract, be paid to the United States.

Death of participant.

"(d)(1) Any obligation under the Scholarship Program (or a written contract thereunder) of a participant in the Scholarship Program for service or payment of damages shall be canceled upon the death of the participant.

Regulations.

"(2) The Administrator shall prescribe regulations providing for the waiver or suspension of any obligation of a participant for service or payment under such Program (or a contract thereunder) whenever compliance by the participant is impossible due to circumstances beyond the control of the participant or whenever the Administrator determines that the waiver or suspension of compliance would be in the best interest of the Veterans' Administration.

Contract release.

"(3) Any obligation of a participant under such Program (or a contract thereunder) for payment of damages may not be released by a discharge in bankruptcy under title 11 before the expiration of the five-year period beginning on the first date that payment of such damages is due.

11 USC 101.

"(e) The Administrator, in cooperation with and with the consent of the heads of other relevant departments and agencies and with the consent of the participant or individual involved, may permit—

"(1) any period of obligated service required to be performed under this subchapter to be performed in another Federal department or agency or in the Armed Forces; and

"(2) any period of obligated service required to be performed in another Federal department or agency or in the Armed Forces under another Federal health personnel scholarship program to be performed in the Department of Medicine and Surgery.

"§ 4145. Exemption of scholarship payments from taxation. 38 USC 4145.

"Notwithstanding any other law, any payment to, or on behalf of, a participant in the Scholarship Program for tuition, education expenses, or a stipend under this subchapter shall be exempt from taxation.

"§ 4146. Program subject to availability of appropriations 38 USC 4146.

"The authority of the Administrator to make payments under this subchapter is effective for any fiscal year only to the extent that appropriated funds are available for such purposes.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following:

"SUBCHAPTER IV—VETERANS' ADMINISTRATION HEALTH PROFESSIONAL SCHOLARSHIP PROGRAM

"Sec.
"4141. Establishment of program; purpose; duration.
"4142. Eligibility; application; written contract.
"4143. Obligated service.
"4144. Breach of contract; liability; waiver.
"4145. Exemption of scholarship payments from taxation.
"4146. Program subject to availability of appropriations.".

(b) Effective October 1, 1980, there are authorized to be appropriated such sums as may be necessary to carry out the program established by the amendments made by subsection (a). Effective date. 38 USC 4146 note.

LIMITATION ON SPECIAL PAY TO PERSONS SERVING OBLIGATED SERVICE UNDER THE SCHOLARSHIP PROGRAM

SEC. 202. Section 4118 (as amended by sections 102, 103, and 104) is further amended by adding at the end thereof the following new subsection: *Ante*, p. 1035.

"(h) A physician or dentist serving a period of obligated service pursuant to subchapter IV of this chapter is not eligible for incentive special pay under this section during the first three years of such obligated service and may only be paid primary special pay under this section at the discretion of the Administrator upon the recommendation of the Chief Medical Director.". *Ante*, p. 1041.

REPORT ON IMPLEMENTATION OF SCHOLARSHIP PROGRAM

SEC. 203. The Administrator of Veterans' Affairs shall submit a report on the implementation of the Veterans' Administration Health Professional Scholarship Program to the Committees on Veterans' Affairs of the Senate and House of Representatives not later than six months after the date of the enactment of this Act. Such report shall include a report on the formulation of regulations Report to congressional committees.

to carry out such program and on the status of the implementation of such program.

TITLE III—GERIATIC RESEARCH AND CARE

PURPOSE

38 USC 4101 note.

SEC. 301. The purposes of this title are (1) to improve and expand the capability of Veterans' Administration health-care facilities to respond with the most effective and appropriate services possible to the medical, psychological and social needs of the increasing number of older veterans, and (2) to advance scientific knowledge regarding such needs and the methods of meeting them by facilitating higher quality geriatric care for eligible older veterans through geriatric and gerontological research, the training of health personnel in the provision of health care to older individuals, and the development of improved models of clinical services for eligible older veterans.

CENTERS OF GERIATRIC RESEARCH, EDUCATION, AND CLINICAL ACTIVITIES

Ante, p. 1036.

SEC. 302. Section 4101, as amended by section 105(a), is amended by adding at the end the following new subsection:

"(f)(1)(A) The Administrator, upon the recommendation of the Chief Medical Director and pursuant to the provisions of this subsection, shall designate not more than fifteen Veterans' Administration health-care facilities as the locations for centers of geriatric research, education, and clinical activities and (subject to the appropriation of sufficient funds for such purpose) shall establish and operate such centers at such locations in accordance with this subsection.

"(B) In designating locations for centers under subparagraph (A) of this paragraph, the Administrator, upon the recommendation of the Chief Medical Director, shall—

"(i) designate each Veterans' Administration health-care facility that on the date of the enactment of the Veterans' Administration Health-Care Amendments of 1980 is operating a geriatric research, education, and clinical center unless, on the recommendation of the Chief Medical Director, the Administrator determines that such facility does not meet the requirements of subparagraph (C) of this paragraph or has not demonstrated effectiveness in carrying out the established purposes of such center or the purposes of title III of the Veterans' Administration Health-Care Amendments of 1980 or the potential to carry out such purposes effectively in the reasonably foreseeable future; and

Supra.

"(ii) assure appropriate geographic distribution of such facilities.

"(C) The Administrator may not designate any health-care facility as a location for a center under subparagraph (A) of this paragraph unless the Administrator, upon the recommendation of the Chief Medical Director, determines that the facility has (or may reasonably be anticipated to develop)—

"(i) an arrangement with an accredited medical school which provides education and training in geriatrics and with which such facility is affiliated under which residents receive education and training in geriatrics through regular rotation through such center and through nursing home, extended care, or domiciliary units of such facility so as to provide such residents with training

in the diagnosis and treatment of chronic diseases of older individuals, including cardiopulmonary conditions, senile dementia, and neurological disorders;

"(ii) an arrangement under which nursing or allied health personnel receive training and education in geriatrics through regular rotation through nursing home, extended care, or domiciliary units of such facility;

"(iii) the ability to attract the participation of scientists who are capable of ingenuity and creativity in health-care research efforts;

"(iv) a policymaking advisory committee composed of appropriate health-care and research representatives of the facility and of the affiliated school or schools to advise the directors of such facility and such center on policy matters pertaining to the activities of such center during the period of the operation of such center; and

"(v) the capability to conduct effectively evaluations of the activities of such center.

"(D) Prior to providing funds for the operation of any such center at a health-care facility other than a health-care facility designated under subparagraph (B)(i) of this paragraph, the Administrator shall assure that the center at each facility designated under such subparagraph is receiving adequate funding to enable such center to function effectively in the areas of geriatric research, education, and clinical activities.

Geriatrics and Gerontology Advisory Committee. Membership.

"(2)(A) The Administrator shall establish in the Department of Medicine and Surgery a Geriatrics and Gerontology Advisory Committee (hereinafter in this subsection referred to as the 'Committee'). The membership of the Committee shall be appointed by the Administrator, upon the recommendation of the Chief Medical Director, and shall include individuals who are not employees of the Federal Government and who have demonstrated interest and expertise in research, education, and clinical activities related to aging and at least one representative of a national veterans' service organization. The Administrator, upon the recommendation of the Chief Medical Director, shall invite representatives of other appropriate departments and agencies of the United States to participate in the activities of the Committee and shall provide the Committee with such staff and other support as may be necessary for the Committee to carry out effectively its functions under this paragraph.

Functions.

"(B) The Committee shall—

"(i) advise the Chief Medical Director on all matters pertaining to geriatrics and gerontology;

"(ii) assess, through an evaluation process (including a site visit conducted not later than three years after the date of the establishment of each new center and not later than two years after the date of the last evaluation of those centers in operation on the date of the enactment of this subsection), the ability of each center established under paragraph (1) of this subsection to achieve its established purposes and the purposes of title III of the Veterans' Administration Health-Care Amendments of 1980;

Ante, p. 1048.

"(iii) assess the capability of the Veterans' Administration to provide high quality geriatric, extended, and other health-care services to eligible older veterans, taking into consideration the likely demand for such services from such veterans;

"(iv) assess the current and projected needs of eligible older veterans for geriatric, extended-care, and other health-care serv-

ices from the Veterans' Administration and its activities and plans designed to meet such needs; and

"(v) perform such additional functions as the Administrator or Chief Medical Director may direct.

Report.

"(C)(i) Not later than April 1, 1983, the Committee shall submit to the Administrator, through the Chief Medical Director, a report with respect to its findings and conclusions under subparagraph (B) of this paragraph. Such report shall include—

"(I) descriptions of the operations of the centers of geriatric research, education, and clinical activities established pursuant to paragraph (1) of this subsection;

"(II) assessments of the quality of the operations of such centers;

"(III) an assessment of the extent to which the Veterans' Administration, through the operation of such centers and other health-care facilities and programs, is meeting the needs of eligible older veterans for geriatric and extended-care and other health-care services;

"(IV) assessments of and recommendations for correcting any deficiencies in the operations of such centers; and

"(V) recommendations for such other geriatric, extended-care, and other health-care services as may be needed to meet the needs of older veterans.

Reports.

Following the submission of such report, the Committee shall also submit to the Administrator, through the Chief Medical Director, such further reports as the Committee considers appropriate with respect to the matters described in clauses (I) through (V) of the preceding sentence.

Report to congressional committees.

"(ii) Not later than ninety days after receipt of a report submitted under division (i) of this subparagraph, the Administrator shall transmit such report, together with the Administrator's comments and recommendations thereon, to the appropriate committees of the Congress.

Appropriation authorization.

"(3) There are hereby authorized to be appropriated for the basic support of the research and education activities of the centers of geriatric research, education, and clinical activities established pursuant to paragraph (1) of this subsection $10,000,000 for fiscal year 1981 and $25,000,000 for each of the next three fiscal years. The Chief Medical Director shall allocate to such centers from other funds appropriated generally for the Veterans' Administration medical care account and medical and prosthetics research account, as appropriate, such amounts as the Chief Medical Director determines appropriate, and, with respect to fiscal year 1984, as the Chief Medical Director determines appropriate after taking into account the report submitted by the Committee under paragraph (2) of this subsection.

Funding.

"(4) Activities of clinical and scientific investigation at each center established under paragraph (1) of this subsection shall be eligible to compete for the award of funding from funds appropriated for the Veterans' Administration medical and prosthetics research account and shall receive priority in the award of funding from such account insofar as funds are awarded to projects for research in geriatrics and gerontology.".

ASSISTANT CHIEF MEDICAL DIRECTOR

38 USC 4103.

SEC. 303. Section 4103(a)(4) is amended by adding at the end the following new sentence: "One Assistant Chief Medical Director shall

be a qualified physician trained in, or having suitable extensive experience in, geriatrics who shall be responsible to the Chief Medical Director for evaluating all research, educational, and clinical health-care programs carried out in the Department in the field of geriatrics and who shall serve as the principal advisor to the Chief Medical Director with respect to such programs.".

EFFECTIVE DATE

SEC. 304. (a) The amendments made by sections 302 and 303 shall take effect on October 1, 1980. 38 USC 4101 note.

(b) The Geriatrics and Gerontology Advisory Committee required to be established by the Administrator in the Department of Medicine and Surgery of the Veterans' Administration pursuant to subsection (f)(2)(A) of section 4101 of title 38, United States Code, as added by section 302, shall be established not later than January 1, 1981. 38 USC 4101 note.

TITLE IV—MISCELLANEOUS AMENDMENTS

STANDARDS FOR PRESUMPTION OF INABILITY TO DEFRAY MEDICAL EXPENSES

SEC. 401. (a) Section 622 is amended to read as follows: 38 USC 622.

"**§ 622. Evidence of inability to defray necessary expenses**

"For the purposes of sections 610(a)(1)(B), 610(b)(2), 624(c), and 632(a)(2) of this title, the fact that an individual is— 38 USC 610, 624, 632.

"(1) eligible to receive medical assistance under a State plan approved under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.);

"(2) a veteran with a service-connected disability; or

"(3) in receipt of pension under any law administered by the Veterans' Administration;

shall be accepted as sufficient evidence of such individual's inability to defray necessary expenses.".

(b) The item relating to such section in the table of sections at the beginning of chapter 17 is amended to read as follows:

"622. Evidence of inability to defray necessary expenses.".

REVOLVING SUPPLY FUND

SEC. 402. (a) Section 5021(a) is amended— 93 Stat. 61. 38 USC 5021.

(1) by inserting after "direct" in clause (2) "cost (which may be based on the cost of recent significant purchases of the equipment or supply item involved)"; and

(2) by striking out the second sentence in such section and inserting in lieu thereof the following:

"At the end of each fiscal year, there shall be covered into the Treasury of the United States as miscellaneous receipts such amounts as the Administrator determines to be in excess of the requirements necessary for the maintenance of adequate inventory levels and for the effective financial management of the revolving supply fund.".

(b) The amendments made by subsection (a) shall take effect as of October 1, 1979. Effective date. 38 USC 5021 note.

MANAGEMENT OF REAL PROPERTY

38 USC 5022.

SEC. 403. (a) Section 5022(a) is amended by inserting "(1)" after "(a)" and by adding at the end thereof the following new paragraph:

Report to congressional committees.

"(2)(A) Before entering into a transaction described in subparagraph (B) of this paragraph with respect to any real property owned by the United States and administered by the Veterans' Administration which has an estimated value in excess of $50,000, the Administrator shall submit a report of the facts concerning the proposed transaction to the Committees on Veterans' Affairs of the Senate and House of Representatives, and such transaction may not then be entered into until after the expiration of 30 days from the date upon which the report is submitted.

Transfer of interest.

"(B) Subparagraph (A) of this paragraph applies to (i) any transfer of an interest in real property to another Federal agency or to a State (or any political subdivision of a State), and (ii) any report to a Federal disposal agency of excess real property.

"(C) A statement in an instrument of conveyance, including a lease, that the requirements of this paragraph have been met, or that the conveyance is not subject to this paragraph, is conclusive for the purposes of all matters pertaining to the ownership of any right or interest in the property conveyed by such instrument.".

38 USC 5070.

(b) Section 5070(e) is amended by inserting a comma and "but no such lease may be for a period of more than 50 years" before the period at the end of the second sentence of such section.

NUMBER OF BEDS REQUIRED TO PROVIDE ADEQUATE NURSING HOME CARE IN STATE HOME FACILITIES

38 USC 5034.

SEC. 404. Section 5034(1) is amended by striking out the comma and "which number" and all that follows in such section and inserting in lieu thereof a period.

REPEAL OF REQUIREMENT THAT RECIPIENTS OF HEALTH-CARE PERSONNEL TRAINING GRANTS MUST INCREASE NUMBER OF INDIVIDUALS RECEIVING TRAINING

38 USC 5093.

SEC. 405. Section 5093(b)(1) is amended by striking out "and will result" and all that follows through "training at such institution".

AVAILABILITY OF FUNDS FOR BENEFICIARY TRAVEL

38 USC 111 note.

SEC. 406. No provision of law enacted after the date of the enactment of this Act which imposes any restriction or limitation on the availability of funds for the travel and transportation of officers and employees of the executive branch of the Government and their dependents, or on the transportation of things of such officers and employees and their dependents, shall be applicable to the travel of eligible veterans, dependents, or survivors, for which reimbursement is authorized under title 38, United States Code, pursuant to the terms and conditions of section 111 of such title, unless such provision is expressly made applicable to the travel of such veterans, dependents, or survivors.

38 USC 101.
38 USC 111.

EXTENSION OF TIME FOR SUBMISSION OF REPORT ON HOSPITAL CARE AND MEDICAL SERVICES FURNISHED IN THE COMMONWEALTH OF PUERTO RICO AND THE VIRGIN ISLANDS

SEC. 407. Section 8(a) of the Veterans' Administration Programs Extension Act of 1978 (Public Law 95-520; 92 Stat. 1822) is amended by striking out "February 1, 1980" and inserting in lieu thereof "February 1, 1981". 38 USC 601 note.

TECHNICAL AMENDMENTS

SEC. 408. Section 4101(b) is amended by striking out "manpower" both places it appears and inserting in lieu thereof "personnel". 38 USC 4101.

THOMAS P. O'NEILL, JR.
Speaker of the House of Representatives.

WALTER F. MONDALE
Vice President of the United States and President of the Senate.

IN THE HOUSE OF REPRESENTATIVES, U.S., *August 26, 1980.*

The House of Representatives having proceeded to reconsider the bill (H.R. 7102) entitled "An Act to amend title 38, United States Code, to promote the recruitment and retention of physicians, dentists, nurses, and other health-care personnel in the Department of Medicine and Surgery of the Veterans' Administration, and for other purposes", returned by the President of the United States with his objections, to the House of Representatives, in which it originated, it was

Resolved, That the said bill pass, two-thirds of the House of Representatives agreeing to pass the same.

EDMUND L. HENSHAW, JR.
Clerk.

By Thomas E. Ladd
Assistant to the Clerk.

I certify that this Act originated in the House of Representatives.

EDMUND L. HENSHAW, JR.
Clerk.

By W. Raymond Colley
Deputy Clerk.

IN THE SENATE OF THE UNITED STATES,

August 26 (legislative day, June 12), 1980.

The Senate having proceeded to reconsider the bill (H.R. 7102) entitled "An Act to amend title 38, United States Code, to promote the recruitment and retention of physicians, dentists, nurses, and other health-care personnel in the Department of Medicine and Surgery of the Veterans' Administration, and for other purposes", returned by the President of the United States with his objections, to the House of Representatives, in which it originated, and passed by the House of Representatives on reconsideration of the same, it was

Resolved, That the said bill pass, two-thirds of the Senators present having voted in the affirmative.

Attest:

J. S. KIMMITT
Secretary.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-958 (Comm. on Veterans' Affairs).
SENATE REPORT No. 96-747 accompanying S. 2534 (Comm. on Veterans' Affairs).
CONGRESSIONAL RECORD, Vol. 126 (1980):
May 19, 20, considered and passed House.
June 5, considered and passed Senate, amended, in lieu of S. 2534.
July 31, House concurred in Senate amendment with an amendment.
Aug. 1, Senate concurred in House amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 16, No. 34:
Aug. 22, vetoed; Presidential message.
CONGRESSIONAL RECORD, Vol. 126 (1980):
Aug. 26, House and Senate overrode veto.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 16, No. 35:
Aug. 26, Presidential statement.

Public Law 96-331
96th Congress

An Act

To authorize the Secretary of Commerce to charter the nuclear ship Savannah to Patriots Point Development Authority, an agency of the State of South Carolina.

Aug. 28, 1980
[S. 1863]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of Commerce is authorized within one year after enactment of this Act, to charter the nuclear ship Savannah to Patriots Point Development Authority, without monetary consideration, for a minimum of five years and a maximum of thirty years, with options to renew for five-year periods thereafter, for use as a museum ship and for other public purposes, but not for transportation, together with such of her fixtures, tackle, apparel, furnishings, and equipment as the Secretary of Commerce, in the Secretary's discretion, determines.

Savannah, charter to Patriots Point Development Authority.

SEC. 2. The charter authorized by section 1 shall include a provision that—

(a) the Secretary of Commerce shall be responsible for inspection and maintenance of the hull below the waterline and that Patriots Point Development Authority shall be responsible for all other maintenance, including the paying for the electrical power for the cathodic hull protection system;

Inspection and maintenance.

(b) the Patriots Point Development Authority shall save the United States harmless from all liability with respect to the vessel;

Liability.

(c) the Patriots Point Development Authority shall return the vessel to the Secretary of Commerce at the termination of the charter or any renewal thereof in the same condition, fair wear and tear excepted, as when the charter was entered into; and

Termination.

(d) the Patriots Point Development Authority shall obtain such insurance and provide such other assurances as the Secretary of Commerce may require to carry out its obligations under this Act.

Insurance.

SEC. 3. The Secretary of Commerce, acting for the United States Government as owner of the vessel, and Patriots Point Development Authority shall apply to the Nuclear Regulatory Commission for a license to possess but not to operate the nuclear utilization facility under which the sole liability of the Secretary of Commerce shall be that the Secretary will bear the financial responsibility for the ultimate disposal of the reactor and other nuclear systems and radioactive contaminated components in the vessel in accordance with a plan which the Secretary of Commerce will submit at the time the reactor, nuclear systems, and radioactive components are to be disposed of and which is then approved by the Nuclear Regulatory Commission as required by the Atomic Energy Act of 1954. The Authority shall be responsible for compliance with the license for the monitoring and security of the reactor and all nuclear systems and radioactive components in the vessel and for filing all reports that may be required as the licensee.

License.
Nuclear disposal.

42 USC 2011 note.
Reports.

79-194 O—81—pt. 1——70 : QL3

Appropriation authorizations.

SEC. 4. Any funds appropriated pursuant to authorizations contained in the Acts of October 21, 1975 (89 Stat. 611; Public Law 94-121), July 14, 1976 (90 Stat. 937; Public Law 94-362), August 2, 1977 (91 Stat. 419; Public Law 95-86), and October 10, 1978 (92 Stat. 1021; Public Law 95-431) are authorized to be used for preservation work on the nuclear ship Savannah. Expenditures authorized by the preceding sentence for the preservation of the nuclear ship Savannah shall not exceed that amount which the Secretary of Commerce, in the Secretary's discretion, determines to be necessary to make the vessel suitable for use by the Patriots Point Development Authority pursuant to section 1 of this Act. No part of any funds authorized to be expended by this section shall be obligated or expended except in connection with work which the Secretary of Commerce determines would otherwise be performed on the nuclear ship Savannah if the vessel were to be laid up in the National Defense Reserve Fleet pursuant to section 11 of the Merchant Ship Sales Act of 1946 (60 Stat. 49).

50 USC app. 1744.
Appropriation authorization.

SEC. 5. Funds appropriated pursuant to authorizations contained in title III of the Act of September 24, 1979 (93 Stat. 416; Public Law 96-68), are authorized to be expended to tow the nuclear ship Savannah to a site at Patriots Point at Mount Pleasant, South Carolina. Beginning in fiscal year 1981 there are authorized to be appropriated such sums as may be necessary to inspect and maintain the hull of the nuclear ship Savannah below the waterline during the term of the charter and any renewals thereof.

Approved August 28, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1220 accompanying H.R. 5867 (Comm. on Merchant Marine and Fisheries).
SENATE REPORT No. 96-478 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD:
Vol. 125 (1979): Dec. 18, considered and passed Senate.
Vol. 126 (1980): Aug. 18, considered and passed House, in lieu of H.R. 5867.

Public Law 96-332
96th Congress

An Act

Aug. 29, 1980
[S. 1140]

To amend title III of the Marine Protection, Research, and Sanctuaries Act of 1972, as amended, to authorize appropriations for such title for fiscal years 1980 and 1981, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 301 of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1431) is amended by adding at the end thereof a new sentence to read as follows: "The term 'State', when used in this title, means any of the several States or any territory or possession of the United States which has a popularly elected Governor.".

Marine Protection, Research, and Sanctuaries Act of 1972, appropriation authorization.
"State."

SEC. 2. Section 302 of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1432) is amended—

(1) in subsection (b), by inserting "(1)" after "(b)", by striking out the second sentence thereof, and by inserting at the end thereof the following new paragraph:

Designation.

"(2) A designation under this section shall become effective unless—

"(A) the Governor of any State described in paragraph (1) certifies to the Secretary, before the end of the sixty-day period beginning on the date of the publication of the designation, that the designation or any of its terms described in subsection (f)(1), are unacceptable to his State, in which case those terms certified as unacceptable will not be effective in the waters described in paragraph (1) in such State until the Governor withdraws his certification of unacceptability; or

"(B) both Houses of Congress adopt a concurrent resolution in accordance with subsection (h) which disapproves the designation or any of its terms described in subsection (f)(1).

Designation withdrawal.

The Secretary may withdraw the designation after any such certification or resolution of disapproval. If the Secretary does not withdraw the designation, only those portions of the designation not certified as unacceptable under subparagraph (A) or not disapproved under subparagraph (B) shall take effect.";

(2) by amending subsection (f) to read as follows:

Designation terms.

"(f)(1) The terms of the designation shall include the geographic area included within the sanctuary; the characteristics of the area that give it conservation, recreational, ecological or esthetic value; and the types of activities that will be subject to regulation by the Secretary in order to protect those characteristics. The terms of the designation may be modified only by the same procedures through which an original designation is made.

Regulations.

"(2) The Secretary, after consultation with other interested Federal and State agencies, shall issue necessary and reasonable regulations to implement the terms of the designation and control the activities described in it, except that all permits, licenses, and other authorizations issued pursuant to any other authority shall be valid unless such regulations otherwise provide.

Research.

"(3) The Secretary shall conduct such research as is necessary and reasonable to carry out the purposes of this title.

Enforcement.

"(4) The Secretary and the Secretary of the department in which the Coast Guard is operating shall conduct such enforcement activities as are necessary and reasonable to carry out the purposes of this title. The Secretary shall, whenever appropriate and in consultation with the Secretary of the department in which the Coast Guard is operating, utilize by agreement the personnel, services, and facilities of other Federal departments, agencies, and instrumentalities, or State agencies or instrumentalities, whether on a reimbursable or a nonreimbursable basis in carrying out his responsibilities under this title."; and

(3) by inserting at the end thereof the following new subsection:

Transmittal to Congress.

"(h)(1) For purposes of subsection (b)(2)(B), the Secretary shall transmit to the Congress a designation of a marine sanctuary at the time of its publication. The concurrent resolution described in subsection (b)(2)(B) is a concurrent resolution which is adopted by both Houses of Congress before the end of the first period of sixty calendar days of continuous session of Congress after the date on which the designation is transmitted, the matter after the resolving clause of which is as follows: 'That the Congress does not favor the taking of effect of the following terms of the marine sanctuary designation numbered transmitted to Congress by the Secretary of Commerce on : .', the blank space being filled with the number of the designation, the second blank space being filled with the date of the transmittal, and the third blank space being filled with the terms of the designation which are disapproved (or the phrase 'the entire designation' if the entire designation is disapproved).

"(2) For the purpose of paragraph (1) of this subsection—

"(A) continuity of session is broken only by an adjournment of Congress sine die; and

"(B) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the sixty-day period.

Publication in Federal Register.

"(3) A designation which becomes effective, or that portion of a designation which takes effect under subsection (b), shall be printed in the Federal Register.".

SEC. 3. Section 304 of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1434) is amended—

(1) by striking out "and" immediately after "fiscal year 1977,"; and

(2) by adding immediately after "fiscal year 1978" the following: "and not to exceed $2,250,000 for fiscal year 1981".

Approved August 29, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-894, pt. 1 (Comm. on Merchant Marine and Fisheries) and pt. 2 (Comm. on Science and Technology), both accompanying H.R. 6616.

SENATE REPORT No. 96-148 (Comm. on Commerce, Science, and Transportation).

CONGRESSIONAL RECORD:

Vol. 125 (1979): May 22, considered and passed Senate.

Vol. 126 (1980): May 12, 13, H.R. 6616 considered and passed House; passage vacated and S. 1140, amended, passed in lieu.

Aug. 18, Senate concurred in House amendment.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:

Vol. 16, No. 35 (1980): Aug. 29, Presidential statement.

Public Law 96-333
96th Congress

An Act

Aug. 29, 1980
[S. 1730]

To declare that title to certain lands in the State of New Mexico are held in trust by the United States for the Ramah Band of the Navajo Tribe.

Ramah Band, Navajo Tribe. Lands in trust.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That on and after the date of the enactment of this Act, title to the following described lands shall be held by the United States in trust for the Ramah Band of the Navajo Tribe:

Township 7 north, range 15 west, New Mexico principal meridian: sections 7, 19, and 31.

Township 7 north, range 16 west, New Mexico principal meridian: sections 1, 3, 5, 7, 9, 11, 13, 15, 17, 19, 21, 23, 25, 27, 29, 31, 33, and 35.

Approved August 29, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1209 accompanying H.R. 5003 (Comm. on Interior and Insular Affairs).
SENATE REPORT No. 96-468 (Select Comm. on Indian Affairs).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Jan. 22, considered and passed Senate.
Aug. 18, H.R. 5003 considered and passed House.
Aug. 19, passage of H.R. 5003 vacated by House; S. 1730, passed in lieu.

Public Law 96-334
96th Congress

Joint Resolution

Providing additional program authority for the Export-Import Bank.

Aug. 29, 1980
[H.J. Res. 589]

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the limitation on program activity of the Export-Import Bank is increased as follows:

Export-Import Bank, additional authorization.

EXPORT-IMPORT BANK OF THE UNITED STATES

LIMITATION ON PROGRAM ACTIVITY

In addition to amounts otherwise authorized for such purposes for the fiscal year 1980, not to exceed $525,750,000 (of which not to exceed $251,000,000 shall be for direct loans) is authorized for the fiscal year 1980 for other than administrative expenses.

Approved August 29, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1191 (Comm. on Appropriations).

CONGRESSIONAL RECORD, Vol. 126 (1980):

July 30, considered and passed House.

July 31, considered and passed Senate, amended, in lieu of S.J. Res. 191.

Aug. 18, House disagreed to Senate amendment; Senate receded from its amendment.

Public Law 96-335
96th Congress

An Act

Sept. 4, 1980
[H.R. 507]

To authorize Federal participation in stream rectification, Trinity River Division, Central Valley project, California, and for other purposes.

Trinity River Division, Central Valley project. Stream rectification.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior, acting through the Commissioner of Reclamation, is authorized to design, construct, operate, and maintain, or to contract with the State of California for the design, construction, operation, or maintenance of, a sand dredging system on the Trinity River immediately downstream from Grass Valley Creek, a tributary of the Trinity River, and a debris dam and associated facilities on Grass Valley Creek, in Trinity County, California, in general conformity to the plan of development described and set forth in the Grass Valley Creek Sediment Control Study, April 1978, prepared for the Trinity River Basin Fish and Wildlife Task Force: *Provided,* That any such contract entered into pursuant to this section shall be effective only to such extent or in such amounts as are provided in advance in appropriation Acts.

Matching funds.

SEC. 2. The contract authorized by section 1 of this Act shall provide that the State of California, on a dollar-for-dollar basis, will match the funds provided by the Water and Power Resources Service for constructing, operating, and maintaining the sand dredging system.

Appropriation authorization.

SEC. 3. There is authorized to be appropriated for fiscal year 1982 and thereafter, to remain available until expended the sum of $3,500,000 (April 1978 price levels), plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuations in construction costs indexes applicable to the type of construction involved herein. There are also authorized to be appropriated such sums as may be required for the Federal share of operation and maintenance. All costs incurred pursuant to this Act shall be nonreimbursable and nonreturnable. No funds shall be expended hereunder until the Board of Supervisors of Trinity County adopts adequate timber road and subdivision standards to protect the Grass Valley Creek watershed, and until an agreement has been executed with the State of California which shall provide that the State of California, on a dollar-for-dollar basis, will match the funds provided by the Water and Power Resources Service for constructing, operating, and maintaining the sand dredging system.

Funding conditions.

Approved September 4, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-514 (Comm. on Interior and Insular Affairs).
SENATE REPORT No. 96-893 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 125 (1979): Oct. 22, considered and passed House.
Vol. 126 (1980): Aug. 18, considered and passed Senate, amended.
Aug. 21, House concurred in Senate amendments.

Public Law 96-336
96th Congress

An Act

Sept. 4, 1980
[S. 496]

To increase the appropriations ceiling for title I of the Colorado River Basin Salinity Control Act (the Act of June 24, 1974; 88 Stat. 266), to increase the appropriations authorization for the Small Reclamation Projects Act of 1956 (70 Stat. 1044), and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act of June 24, 1974 (hereafter referred to as the "Act"), is hereby amended as follows:

Colorado River Basin Salinity Control Act and Small Reclamation Projects Act of 1956, amendments.

SECTION 1. Section 101(b)(2) is amended, by inserting "(A)" after "(2)", by deleting the last sentence of the paragraph, and by adding thereafter the following:

43 USC 1571 note.

"(B) The Secretary is authorized to use electrical power and energy available from the Navajo Generating Station which is in excess of the Central Arizona Project pumping requirements for the purpose of supplying power and energy requirements of the desalting plant and protective pumping well field constructed pursuant to title I of the Act: *Provided,* That revenues credited to the Lower Colorado River Basin Development Fund shall not be diminished below those amounts which would have accrued had the power been marketed at the rate determined by the Secretary of Energy for the sale of power from the Navajo Generating Station to utilities and public entities, as a result of the use of power and energy for the desalting, protective pumping works, and other uses authorized by law, and that power and energy from the Navajo Generating Station shall be used first to meet the pumping requirements of the Central Arizona Project and after those needs have been met, for the desalting and protective pumping facilities constructed pursuant to title I of the Act, and finally for other uses: *Provided further,* That prior to obtaining power from the Navajo Generating Station under the authority of this subsection, the Secretary shall complete an analysis of alternative sources of supply, including but not limited to the possibility of developing an agreement with the Republic of Mexico whereby the United States (or a non-Federal entity) would enter into contractual arrangements with Mexico for a sufficient supply of power to operate the desalting plant, the regulatory pumping fields and appurtenant facilities.

43 USC 422k.
43 USC 1571.
43 USC 1571.

Supplemental power and energy purchase. Effective date.

"(C) Effective October 1, 1979, and to such extent and in such amounts as are provided in advance in appropriation Acts, the Secretary of the Interior is authorized to purchase supplemental power and energy as required for the purposes of supplying the power and energy requirements of the desalting plant and protective pumping well field.".

SEC. 2. Section 101(c) is amended by inserting ", Colorado River waters used for the mitigation of fish and wildlife habitat losses" after "from the desalting plant" in two places.

SEC. 3. Section 103(a) of the Act is amended by adding a new subsection (4) as follows:

43 USC 1573.

Contracts.
Effective date.

"(4) Effective October 1, 1979, and to such extent and in such amounts as are provided in advance in appropriation Acts, enter into contracts under the terms and conditions of the Act of June 17, 1902 (43 U.S.C. 371 et seq.) as amended and supplemented for the delivery of water from said well field to entities within the United States for municipal and industrial or irrigation purposes: *Provided*, That such contracts for municipal and industrial purposes shall contain terms and conditions as substantially provided in section 9(c)(1) of the Reclamation Project Act of 1939, and that contracts for replacement irrigation water supplies to prevent damage to existing water users on privately developed lands include water charges no greater than if such water users had continued to pump their own wells without the United States lowering the water table and that the acreage limitation and related provisions of the Reclamation Law will not be applicable to such privately developed lands: *Provided further*, That no contract shall be entered which will impair the ability of the United States to continue to deliver to Mexico on the land boundary at San Luis and in the Limitrophe Section of the Colorado River downstream from Morelos Dam approximately one hundred and forty thousand acre-feet annually, consistent with the terms contained in Minute No. 242 of the IBWC.".

43 USC 485h.

43 USC 1576, 1577.

SEC. 4. A new section 106 shall be added to the Act, as follows, and succeeding sections shall be renumbered accordingly:

Administration and disposal of lands.
43 USC 1575a.

"SEC. 106. The Secretary is hereby authorized to administer and dispose of lands and interests in lands acquired, and facilities constructed under this title, and revenues received in connection with this authority shall be credited to the general fund of the Treasury.".

43 USC 1578.

SEC. 5. Section 108 of the Act is changed to section 109 and effective October 1, 1979, is amended by striking the first sentence and inserting in lieu thereof: "There is hereby authorized to be appropriated the sum of $356,400,000 for the construction of the works and accomplishment of the purposes authorized in sections 101, 102, 103, and 110, of which $3,579,000 is authorized for mitigation of fish and wildlife losses associated with replacement of the Coachella Canal in California, and $6,960,000 is authorized for mitigation of fish and wildlife losses associated with the Desalting Complex Unit and the Protective and Regulatory Pumping Unit in Arizona, based on January 1979, prices plus or minus such amounts as may be justified by reason of ordinary fluctuation in construction costs involved therein, and such sums as may be required to operate and maintain such works and to provide for such modifications as may be made pursuant to section 104. In order to provide for the utilization of significant improvements in desalinization technologies which may have been developed since the Bureau's evaluation, the Secretary is directed to evaluate such cost effective improvements and implement such improved designs into the plant operations when the evaluation indicates that cost savings will result: *Provided, however*, That no more than five percent of the amount authorized to be appropriated is used for these purposes.".

Appropriation authorization.

43 USC 1571–1573, *infra*.

43 USC 1574.

Effective date.
43 USC 1579.

SEC. 6. A new section 110 shall be added to the Act, as follows:

"SEC. 110. Effective October 1, 1979, and to such extent and in such amounts as are provided in advance in appropriate Acts, in order to provide measures determined by the Secretary of the Interior to be appropriate to mitigate loss of fish and wildlife habitat associated with other measures taken under this title:

Land acquisition and disposal.

"(a) The Secretary is authorized to—

"(1) acquire lands by purchase, eminent domain, or exchange;

"(2) dispose of land, facilities, and equipment;

"(3) construct, operate, maintain, and make replacements of facilities: *Provided, however,* That no funds will be provided for operation, maintenance, or replacement of non-Federal facilities. Facility construction.

"(b) All costs authorized by this section are nonreimbursable.".

SEC. 7. A new section 111 shall be added to the Act, as follows: 43 USC 1580.

"SEC. 111. As used in this title:

"(a) Navajo Generating Station means— Navajo Generating Station.

"(1) the United States entitlement to a portion of the output of power and energy from the Navajo Generating Station, Page, Arizona, pursuant to United States participation in that generating station;

"(2) in the event that said United States entitlement is integrated with other generating facilities, then Navajo Generating Station means that amount of power and energy from the integrated system which is attributable to the United States Navajo entitlement;

"(3) when the Navajo Generating Station is replaced at the end of its useful life or an alternative resource is established, then Navajo Generating Station means an amount of power and energy equivalent to the present United States entitlement from Navajo, from the replacement resource.

"(b) All terms used herein that are defined in the Colorado River Compact shall have the meanings therein defined.".

SEC. 8. The Small Reclamation Projects Act of 1956 (70 Stat. 1044) as amended, is further amended as follows: 43 USC 422k.

(a) Effective October 1, 1980, section 10, as amended, is further amended by deleting "$400,000,000" and inserting in lieu thereof the amount of "$600,000,000". Appropriation authorization. 43 USC 422j.

(b) Subsection (c) of section 5, as amended, is further amended by adding the following: "Except that portion of said allocation attributable to furnishing benefits to a facility operated by an agency of the United States, which portion shall bear no interest;". 43 USC 422e.

Approved September 4, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-177 accompanying H.R. 2609 (Comm. on Interior and Insular Affairs).

SENATE REPORT No. 96-181 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD:

Vol. 125 (1979): June 4, considered and passed Senate.

Vol. 126 (1980): Feb. 7, H.R. 2609 considered and passed House; passage vacated and S. 496, amended, passed in lieu.

June 24, Senate concurred in House amendments with amendments.

Aug. 21, House concurred in Senate amendments.

Public Law 96-337
96th Congress

Joint Resolution

Sept. 4, 1980
[S.J. Res. 83]

To authorize the Camp Fire Girls of Cundys Harbor, Maine, to erect a memorial in the District of Columbia.

The Maine Lobsterman, statue in D.C.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Camp Fire Girls of Cundys Harbor, Maine, is authorized to erect a memorial on public grounds in the District of Columbia, subject to authorization by the Secretary of the Interior as provided in section 2, in commemoration of the State of Maine. This memorial shall be in the form of a statue, and shall be entitled "The Maine Lobsterman".

SEC. 2. (a) The Secretary of the Interior is authorized to select, with the approval of the National Commission of Fine Arts and the National Capital Planning Commission, a suitable site on public grounds in the District of Columbia, upon which may be erected the memorial authorized in the first section of this resolution. If the site selected is on public grounds belonging to or under the jurisdiction of the District of Columbia, the approval of the Mayor of the District of Columbia shall also be obtained.

Design and plans.

(b) The design and plans for such memorial shall be subject to the approval of the Secretary of the Interior, the National Commission of Fine Arts and the National Capital Planning Commission.

(c) Other than as to the land authorized for the erection of the memorial in the first section, neither the United States nor the District of Columbia shall be put to any expense in the erection of this memorial.

SEC. 3. The authority conferred pursuant to this resolution shall lapse unless (1) the erection of such memorial is commenced within five years from the date of enactment of this resolution, and (2) prior to its commencement funds are certified available in an amount sufficient, in the judgment of the Secretary of the Interior to insure completion of the memorial.

Maintenance and care.

SEC. 4. The maintenance and care of the memorial erected under the provisions of this resolution shall be the responsibility of the Secretary of the Interior.

Approved September 4, 1980.

LEGISLATIVE HISTORY:

SENATE REPORT No. 96-361 (Comm. on Rules and Administration).
CONGRESSIONAL RECORD:
Vol. 125 (1979): Oct. 15, considered and passed Senate.
Vol. 126 (1980): Aug. 22, considered and passed House.

Public Law 96-338
96th Congress

An Act

Sept. 4, 1980
[S. 1998]

To provide for the United States to hold in trust for the Tule River Indian Tribe certain public domain lands formerly removed from the Tule River Indian Reservation.

Indians.
Tule River Tribe.
Lands in trust.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all right, title, and interest in lands owned by the United States and administered by the United States Forest Service, as described in section 2, which were removed from the Tule River Indian Reservation pursuant to the Act of May 17, 1928 (45 Stat. 600-601) are declared to be held in trust by the United States for the Tule River Indian Tribe and to be part of the Tule River Indian Reservation.

Description.

SEC. 2. The lands referred to in section 1 are the following:

MOUNT DIABLO MERIDIAN, CALIFORNIA

TOWNSHIP 21 SOUTH, RANGE 31 EAST

Section 16:
That portion lying south of the hydrographic divide between the South Fork of the Middle Fork of the Tule River and the South Fork of the Tule River and westerly of a northerly prolongation of the eastern boundary of the Tule River Indian Reservation.

Section 17:
That portion lying south of the hydrographic divide between the South Fork of the Middle Fork of the Tule River and the South Fork of the Tule River.

Section 18:
That portion of the northeast quarter northeast quarter lying south of the hydrographic divide between the South Fork of the Middle Fork of the Tule River and the South Fork of the Tule River.
South half northeast quarter.
Southeast quarter northwest quarter.

Section 20:
East half northeast quarter.
Southwest quarter northeast quarter.
South half northeast quarter.

Section 21:
Northwest quarter northwest quarter.

Section 28:
Tract 48.

Right-of-way.

SEC. 3. (a) Nothing in this Act shall deprive any person of any valid existing right-of-way, lease, permit, or other right or interest which such person may have in any of the lands described in section 2.

(b) The transfer under the first section of this Act shall be subject to such right-of-way through lands in section 16 as the Secretary of Agriculture considers necessary to provide access to United States

Forest Service lands located east of section 16. Such right-of-way shall be located and used in such manner as the Secretary of Agriculture determines to be appropriate.

Publication in Federal Register.

SEC. 4. The Secretary of the Interior shall promptly cause to be published in the Federal Register a description of the lands transferred pursuant to this Act and a description of the boundaries of the Tule River Indian Reservation, as modified by the transfer made pursuant to this Act.

Approved September 4, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1160 accompanying H.R. 4124 (Comm. on Interior and Insular Affairs).

SENATE REPORT No. 96-627 (Comm. on Indian Affairs).

CONGRESSIONAL RECORD, Vol. 126 (1980):

Mar. 18, considered and passed Senate.

Aug. 18, H.R. 4124 considered and passed House; passage vacated and S. 1998, amended, passed in lieu.

Aug. 20, Senate concurred in House amendment.

Public Law 96-339
96th Congress

An Act

To authorize appropriations for fiscal years 1981, 1982, and 1983 for the Atlantic Tunas Convention Act of 1975, and for other purposes.

Sept. 4, 1980
[S. 2549]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Atlantic Tunas Convention Act of 1975, appropriation authorization.

SECTION 1. AMENDMENTS TO ATLANTIC TUNAS CONVENTION ACT OF 1975.

The Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971 et seq.) is amended as follows:

(1) Section 4 is amended—

(A) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(B) by striking out "paragraph (1)" in subparagraph (B) (as so redesignated) and inserting in lieu thereof "subparagraph (A)"; and

(C) by amending the first and second sentences to read as follows:

Advisory committee. 16 USC 971b.

"There is established an advisory committee which shall be composed of—

Membership.

"(1) not less than five nor more than twenty individuals appointed by the United States Commissioners who shall select such individuals from the various groups concerned with the fisheries covered by the Convention; and

"(2) the chairmen (or their designees) of the New England, Mid-Atlantic, South Atlantic, Caribbean, and Gulf Fishery Management Councils established under section 302(a) of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1852(a)).

Term of office.

Each member of the advisory committee appointed under paragraph (1) shall serve for a term of two years and shall be eligible for reappointment.".

16 USC 971h.

(2) Section 10 is amended by striking out "and 1980" and inserting in lieu thereof "1980, 1981, 1982, and 1983".

16 USC 1827.

SEC. 2. OBSERVER PROGRAM REGARDING CERTAIN FOREIGN FISHING.

(a) DEFINITIONS.—As used in this section—

(1) The term "Act of 1976" means the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1801 et seq.).

(2) The term "billfish" means any species of marlin, spearfish, sailfish or swordfish.

(3) The term "Secretary" means the Secretary of Commerce.

(b) OBSERVER PROGRAM.—The Secretary shall establish a program under which a United States observer will be stationed aboard each foreign fishing vessel while that vessel—

(1) is in waters that are within—

(A) the fishery conservation zone established under section 101 of the Act of 1976, and

16 USC 1811.

(B) the Convention area as defined in Article I of the International Convention for the Conservation of Atlantic Tunas; and

20 UST 2887.

(2) is taking or attempting to take any species of fish if such taking or attempting to take may result in the incidental taking of billfish.

The Secretary may acquire observers for such program through contract with qualified private persons.

(c) FUNCTIONS OF OBSERVERS.—United States observers, while aboard foreign fishing vessels as required under subsection (b), shall carry out such scientific and other functions as the Secretary deems necessary or appropriate to carry out this section.

(d) FEES.—There is imposed for each year after 1980 on the owner or operator of each foreign fishing vessel that, in the judgment of the Secretary, will engage in fishing in waters described in subsection (b)(1) during that year which may result in the incidental taking of billfish a fee in an amount sufficient to cover all of the costs of providing an observer aboard that vessel under the program established under subsection (a). The fees imposed under this subsection for any year shall be paid to the Secretary before that year begins. All fees collected by the Secretary under this subsection shall be deposited in the Fund established by subsection (e).

Foreign Fishing Observer Fund, establishment.

(e) FUND.—There is established in the Treasury of the United States the Foreign Fishing Observer Fund. The Fund shall be available to the Secretary as a revolving fund for the purpose of carrying out this section. The Fund shall consist of the fees deposited into it as required under subsection (d). All payments made by the Secretary to carry out this section shall be paid from the Fund, only to the extent and in the amounts provided for in advance in appropriation Acts. Sums in the Fund which are not currently needed for the purposes of this section shall be kept on deposit or invested in obligations of, or guaranteed by, the United States.

(f) PROHIBITED ACTS.—(1) It is unlawful for any person who is the owner or operator of a foreign fishing vessel to which this section applies—

(A) to violate any regulation issued under subsection (g);

(B) to refuse to pay the fee imposed under subsection (d) after being requested to do so by the Secretary; or

(C) to refuse to permit an individual who is authorized to act as an observer under this section with respect to that vessel to board the vessel for purposes of carrying out observer functions.

16 USC 1858.

(2) Section 308 of the Act of 1976 (relating to civil penalties) applies to any act that is unlawful under paragraph (1), and for purposes of such application the commission of any such act shall be treated as an act the commission of which is unlawful under section 307 of the Act of 1976.

16 USC 1857.

(g) REGULATIONS.—The Secretary shall issue such regulations as are necessary or appropriate to carry out this section.

16 USC 971i.

SEC. 3. REPORTS REGARDING BLUEFIN TUNA.

Submittal to Congress.

The Secretary of Commerce shall prepare, for each biennial period commencing with the period covering calendar years 1981 and 1982, and submit to the Congress a report setting forth, with respect to such biennial period—

(1) the level of taking of bluefin tuna by United States fishermen in the Convention area as defined in Article I of the International Convention for the Conservation of Atlantic Tunas;

20 UST 2887.

(2) the status of bluefin tuna stocks within such Convention area and the trends in their population level; and

(3) related information resulting from the implementation of the observer program under section 2 of this Act.

The report required under this section shall be submitted to the Congress within sixty days after the close of the biennial period covered by the report. There are authorized to be appropriated such sums as may be necessary to carry out this section.

Appropriation authorization.

Approved September 4, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1017 accompanying H.R. 6310 (Comm. on Merchant Marine and Fisheries).
SENATE REPORT No. 96-708 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD, Vol. 126 (1980):
May 20, considered and passed Senate.
June 3, H.R. 6310 considered and passed House; passage vacated and S. 2549, amended, passed in lieu.
July 28, Senate concurred in House amendments with amendments.
Aug. 22, House concurred in Senate amendments.

79-194 O—81—pt. 1——71 : QL3

Public Law 96-340
96th Congress

An Act

To establish a reservation for the Confederated Tribes of Siletz Indians of Oregon.

Sept. 4, 1980
[S. 2055]

Confederated Tribes of Siletz Indians of Oregon.
Reservation establishment.
25 USC 711e note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. Subject to all valid liens, rights-of-way, reciprocal road rights-of-way agreements, licenses, leases, permits, and easements existing on the date of the enactment of this Act, all right, title, and interest of the United States in the following parcel of land (consisting of approximately three thousand six hundred and thirty acres and located in the State of Oregon) is held in trust for the Confederated Tribes of Siletz Indians of Oregon:

(1) In township 9 south, range 9 west, Willamette meridian—

(A) in section 13 the southeast quarter of the northwest quarter;

(B) in section 14 the northeast quarter of the northeast quarter;

(C) in section 15 lot 2;

(D) in section 20 the east half of the east half of northeast quarter and the east half of the northeast quarter of the southeast quarter;

(E) in section 21 the south half of the northeast quarter, southeast quarter of the northwest quarter, and the northeast quarter of the southwest quarter;

(F) in section 22 the north half of the northwest quarter of the northeast quarter, the northeast quarter of the northwest quarter, and the south half of the northwest quarter;

(G) in section 23 lots 3, 4, and 5, the southwest quarter of the northeast quarter, and the northwest quarter of the southeast quarter;

(H) in section 24 the northeast quarter of the southwest quarter;

(I) in section 25 lots 3 and 7, the southeast quarter of the northeast quarter, the southeast quarter of the northwest quarter, the east half of the southwest quarter, and the southeast quarter;

(J) in section 26 the southeast quarter;

(K) in section 27 the south half of the northeast quarter of the northeast quarter, the south half of the northeast quarter, the south half of the southwest quarter of the northwest quarter, the southeast quarter of the northwest quarter, and the north half of the southeast quarter;

(L) in section 31 lot 20 and the southeast quarter of the northeast quarter;

(M) in section 32 the north half of lot 21;

(N) in section 34 the east half of the west half of the northwest quarter, the east half of the northeast quarter of the southeast quarter, the east half of the southwest quarter

of the southeast quarter, and the southeast quarter of the southeast quarter;

(O) in section 35 the north half of the southwest quarter, the southwest quarter of the southwest quarter, the northwest quarter of the southeast quarter, and the southeast quarter of the southeast quarter; and

(P) in section 36 the southwest quarter of the southeast quarter.

(2) In township 10 south, range 9 west, Willamette meridian—

(A) in section 2 the north half of lot 7 and the north half of lot 8;

(B) section 3 lots 1, 2, 3, and 14;

(C) in section 4 the east half of the east half of the southwest quarter, the east half of the southeast quarter, the east half of the northwest quarter of the southeast quarter, the southwest quarter of the northwest quarter of the southeast quarter, and the southwest quarter of the southeast quarter;

(D) in section 6 the east half of the southwest quarter of the southwest quarter;

(E) in section 8 lot 3;

(F) in section 9 lots 1, 2, and 3 and the east half of lot 4;

(G) in section 13 the southwest quarter of the southeast quarter;

(H) in section 15 lot 1;

(I) in section 16 the southeast quarter of the southeast quarter;

(J) in section 17 lot 4;

(K) in section 18 lot 1;

(L) in section 20 lot 11;

(M) in section 21 lots 5 and 8;

(N) in section 22 lots 4, 5, and 17;

(O) in section 24 lots 1, 2, and 12;

(P) in section 25 the west half of the northeast quarter; and

(Q) in section 26 the southwest quarter of the southeast quarter.

(3) In township 10 south, range 10 west, Willamette meridian—

(A) in section 13 the east half of the northwest quarter;

(B) in section 14 the southeast quarter of the southwest quarter;

(C) in section 15 the south half of the northeast quarter and the east half of the southeast quarter of the northwest quarter;

(D) in section 20 of lot 1 lying south of the southern boundary of the former Siletz Indian Reservation;

(E) in section 23 lots 6 and 7; and

(F) in section 24 lot 8.

(4) In township 10 south, range 8 west, Willamette meridian—

(A) in section 18 the southeast quarter of the northwest quarter and the southeast quarter of the southeast quarter;

(B) in section 20 the south half of the southeast quarter;

(C) in section 22 the southwest quarter of the northeast quarter; and

(D) in section 30 lot 1.

Land conveyance.

SEC. 2. The Secretary of the Interior, acting at the request of the Confederated Tribes of Siletz Indians of Oregon, shall accept (subject to all valid liens, rights-of-way, licenses, leases, permits, and easements existing on the date of the enactment of this Act) any deed or

other instrument conveying to the United States the following parcel of land (consisting of approximately thirty-eight and forty-four one hundredths acres and located in the State of Oregon in the northeast quarter of section 9 and the southeast quarter of section 4 in township 10 south, range 10 west, Willamette meridian) conveyed to the city of Siletz on July 27, 1956 (known as Government Hill), and hold such land in trust for the Confederated Tribes of Siletz Indians of Oregon:

Beginning at a ¾-inch iron pipe at the northeast corner of section 9, township 10 south, range 10 west, Willamette meridian, in Lincoln County, Oregon. Said point being the true point of beginning; thence north 0 degrees 36 minutes 9 seconds east, 658.81 feet to a found 2-inch iron pipe; thence north 88 degrees 41 minutes 18 seconds west, 653.16 feet; thence south 1 degree 30 minutes 45 seconds west, 681.49 feet to a found ¾-inch iron pipe, thence south 89 degrees 17 minutes 43 seconds west, 564.83 feet to a stone marked with an "X", said point lying north 89 degrees 47 minutes east, 100.26 feet from a stone marked with an "X" at the northwest corner of the northeast quarter northeast quarter of section 9, township 10 south, range 10 west, Willamette meridian; thence south 0 degrees 6 minutes east, 660.48 feet to a 2-inch iron pipe; thence south 89 degrees 31 minutes west, 100.00 feet; thence south 59 degrees 43 minutes 18 seconds east, 1,298.82 feet; thence north 89 degrees 45 minutes east, 54.20 feet, to a point lying south 89 degrees 45 minutes west, 165.00 feet from a 1-inch pipe at the southeast corner of the northeast quarter northeast quarter of section 9, township 10 south range 10 west, Willamette meridian; thence north 0 degrees 34 minutes west, 598.98 feet; thence north 89 degrees 45 minutes east, 165.00 feet; thence north 0 degrees 34 minutes west, 730.79 feet to the point of beginning.

Payment.

The Secretary of the Interior is directed to pay to the city of Siletz, Oregon, upon adequate documentation, an amount equal to the costs and expenses, not to exceed $5,000, incurred by the city of Siletz, Oregon, in connection with its consideration of, and planning for, the conveyance of said parcel, and in conveying said parcel to the United States.

SEC. 3. The parcel of land described in section 1 and any land described in section 2 conveyed to the Secretary of the Interior shall constitute the reservation of the Confederated Tribes of Siletz Indians of Oregon and shall be subject to the Act of June 18, 1934 (25 U.S.C. 461 et seq.), and the provisions reapplied to such tribes pursuant to section 3 of the Siletz Indian Tribe Restoration Act (25 U.S.C. 711 et seq.). Such lands shall be subject to the right of the Secretary of the Interior to establish, without compensation to such tribes, such reasonable rights-of-way and easements as are necessary to provide access to or to serve adjacent or nearby Federal lands.

Rights-of-way and easements, establishment.

Hunting, fishing, or trapping rights.

SEC. 4. The establishment of the Siletz Reservation or the addition of lands to the reservation in the future, shall not grant or restore to the tribe or any member of the tribe any new or additional hunting, fishing, or trapping right of any nature, including any indirect or procedural right or advantage, on such reservation beyond the rights which are declared and set forth in the final judgment and decree of the United States District Court for the District of Oregon, in the action entitled Confederated Tribes of Siletz Indians of Oregon against State of Oregon, entered on May 2, 1980. Those rights as declared and set forth in the May 2, 1980, final judgment and decree shall constitute the exclusive and final determination of all tribal

rights to hunt, fish, or trap that the Siletz Tribe or its members possess.

Jurisdiction.

SEC. 5. The State of Oregon shall have civil and criminal jurisdiction with respect to the reservation constituted pursuant to section 3 and to any individual on the reservation, in accordance with section 1360 of title 28, United States Code, and section 1162 of title 18, United States Code.

Approved September 4, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1159 accompanying H.R. 7267 (Comm. on Interior and Insular Affairs).

SENATE REPORT No. 96-626 (Comm. on Indian Affairs).

CONGRESSIONAL RECORD, Vol. 126 (1980):

Mar. 19, considered and passed Senate.

Aug. 18, H.R. 7267 considered and passed House; passage vacated and S. 2055, amended, passed in lieu.

Aug. 20, Senate concurred in House amendment.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 16, No. 36:

Sept. 5, Presidential statement.

Public Law 96-341
96th Congress

An Act

Sept. 8, 1980
[H.R. 8010]

To amend the Comprehensive Employment and Training Act to designate a Job Corps Center as the "Earle C. Clements Job Corps Center".

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Comprehensive Employment and Training Act (29 U.S.C. 801 et seq.) is amended by inserting after section 468 the following new section:

Earle C. Clements Job Corps Center. Designation.

"EARLE C. CLEMENTS JOB CORPS CENTER

29 USC 941a.

"SEC. 469. The Secretary shall designate the Job Corps facilities located in the State of Kentucky in Union County and Muhlenburg County as the 'Earle C. Clements Job Corps Center'. Any reference in law, map, regulation, document, record, or other paper of the United States to the Job Corps facilities specified in the first sentence of this section shall be held to be a reference to the 'Earle C. Clements Job Corps Center'.".

SEC. 2. The table of contents of the Comprehensive Employment and Training Act is amended by inserting after the item relating to section 468 the following new item:

"Sec. 469. Earle C. Clements Job Corps Center.".

Approved September 8, 1980.

LEGISLATIVE HISTORY:

CONGRESSIONAL RECORD, Vol. 126 (1980):
Aug. 26, considered and passed House and Senate.

Public Law 96-342
96th Congress

An Act

Sept. 8, 1980
[H.R. 6974]

To authorize appropriations for fiscal year 1981 for procurement of aircraft, missiles, naval vessels, track combat vehicles, torpedoes, and other weapons and for research, development, test, and evaluation for the Armed Forces, to prescribe the authorized personnel strength for each active duty component and the Selected Reserve of each Reserve component of the Armed Forces and for civilian personnel of the Department of Defense, to authorize the military training student loads, to authorize appropriations for fiscal year 1981 for civil defense, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Department of Defense Authorization Act, 1981".

Department of Defense Authorization Act, 1981.

TITLE I—PROCUREMENT

AUTHORIZATION OF APPROPRIATIONS

SEC. 101. Funds are hereby authorized to be appropriated for fiscal year 1981 for the use of the Armed Forces of the United States for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons, as authorized by law, in amounts as follows:

AIRCRAFT

For aircraft: for the Army, $1,076,400,000; for the Navy and the Marine Corps, $6,150,600,000, of which $33,600,000 shall be available only for procurement of aircraft for the Navy Undergraduate Helicopter Pilot Training Program; for the Air Force, $9,365,143,000, of which $518,800,000 shall be available only for procurement of War Reserve Materiel spares.

MISSILES

For missiles: for the Army, $1,580,500,000; for the Navy, $2,236,400,000; for the Marine Corps, $94,043,000; for the Air Force, $3,176,184,000.

NAVAL VESSELS

For naval vessels: for the Navy, $8,363,200,000.

TRACKED COMBAT VEHICLES

For tracked combat vehicles: for the Army, $2,313,500,000; for the Marine Corps, $45,825,000.

TORPEDOES

For torpedoes and related support equipment: for the Navy $386,600,000.

OTHER WEAPONS

For other weapons: for the Army, $334,500,000; for the Navy, $195,500,000; for the Marine Corps, $69,490,000.

AUTHORIZATION OF APPROPRIATIONS FOR CONTRIBUTION TO AIRBORNE WARNING AND CONTROL SYSTEM (AWACS) FOR NATO

SEC. 102. There is authorized to be appropriated for fiscal year 1981 the sum of $382,000,000 to be available only for contribution by the United States of its share of the cost for such fiscal year of the acquisition by the North Atlantic Treaty Organization of the Airborne Warning and Control System (AWACS).

CERTAIN AUTHORITY PROVIDED SECRETARY OF DEFENSE IN CONNECTION WITH THE NATO AIRBORNE WARNING AND CONTROL SYSTEM (AWACS) PROGRAM

Waiver.

SEC. 103. (a) During fiscal year 1981, the Secretary of Defense, in carrying out the Multilateral Memorandum of Understanding Between the North Atlantic Treaty Organization (NATO) Ministers of Defence on the NATO E-3A Cooperative Programme, signed by the Secretary of Defense on December 6, 1978, may—

(1) waive reimbursement for the cost of the following functions performed by personnel other than personnel employed in the United States Air Force Airborne Warning and Control System (AWACS) program office:

(A) auditing;

(B) quality assurance;

(C) codification;

(D) inspection;

(E) contract administration;

(F) acceptance testing;

(G) certification services; and

(H) planning, programming, and management services

(2) waive any surcharge for administrative services otherwis chargeable; and

(3) in connection with the NATO E-3A Cooperative Pr gramme for fiscal year 1981, assume contingent liability for-

(A) program losses resulting from the gross negligence any contracting officer of the United States;

(B) identifiable taxes, customs duties, and other charg levied within the United States on the program; and

(C) the United States share of the unfunded terminati liability.

Contract authority.

(b) Authority under this section to enter into contracts shall effective for any fiscal year only to such extent or in such amounts are provided in appropriation Acts.

PATRIOT MISSILE SYSTEM

SEC. 104. Not more than $494,100,000 of the funds authorized t appropriated by this title for the Army may be used for procuren of the PATRIOT missile system, and no funds authorized t appropriated by this title for the Army may be obligated or expe for the procurement of PATRIOT missile system end-items u and until the Secretary of Defense certifies to the Committee Armed Services and Appropriations of the Senate and the Hou Representatives that, based upon operational and development

ing conducted by the Army, the PATRIOT missile system is suitable for hardware production.

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

AUTHORIZATION OF APPROPRIATIONS

SEC. 201. (a) Funds are hereby authorized to be appropriated for fiscal year 1981 for the use of the Armed Forces of the United States for research, development, test, and evaluation, as authorized by law, in amounts as follows:

For the Army, $3,248,005,000.

For the Navy (including the Marine Corps), $5,112,775,000, of which $45,251,000 is authorized only for the research, development, test, and evaluation of Lightweight Armored Vehicles.

For the Air Force, $7,159,857,000.

For the Defense Agencies, $1,367,802,000, of which $42,100,000 is authorized for the activities of the Director of Test and Evaluation, Defense.

(b) In addition to the funds authorized to be appropriated in subsection (a), there are authorized to be appropriated for fiscal year 1981 such additional sums as may be necessary for increases in salary, pay, retirement, and other employee benefits authorized by law for civilian employees of the Department of Defense whose compensation is provided for by funds authorized to be appropriated in this title.

MX MISSILE AND BASING MODE

SEC. 202. (a) The Congress finds that a survivable land-based intercontinental ballistic missile (ICBM) system is vital to the security of the United States and to a stable strategic balance between the United States and the Soviet Union and that timely deployment of a new basing mode is essential to the survivability of this Nation's land-based intercontinental ballistic missiles. It is, therefore, the purpose of this section to commit the Congress to the development and deployment of the MX missile system, consisting of 200 missiles and 4,600 hardened shelters, and to insure that deployment of the entire MX system is carried out as soon as practicable. Congressional findings. 10 USC 139 note.

(b) The Secretary of Defense shall proceed immediately with the full-scale engineering development of the MX missile and a Multiple Protective Structure (MPS) basing mode and shall continue such development in a manner that will achieve an Initial Operational Capability of such missile and basing mode not later than December 31, 1986.

(c) Notwithstanding any other provision of law, the initial phase of construction shall be limited to 2,300 protective shelters for the MX missile in the initial deployment area.

(d) In accordance with the finding of the Congress expressed in subsection (a), a full system of at least 4,600 protective shelters may be deployed in the initial deployment area if, after completion of a study to be conducted by the Secretary of Defense of an alternate site for a portion of the system, it is determined by the Congress that adverse cost, military considerations, or other reasons preclude split basing. Study.

C-X AIRCRAFT PROGRAM

SEC. 203. (a) None of the funds authorized to be appropriated by this title may be obligated or expended for the full-scale engineering development or procurement of the C-X or any other new transport aircraft until the Secretary of Defense has certified in writing to the Congress—

(1) that the national security requirements of the United States for additional military airlift capability merit initiation of the C-X aircraft program;

(2) that the magnitude and nature of the military cargo and material to be airlifted to the Indian Ocean area and other areas of potential conflict are sufficiently well defined to permit identification of a deficiency in military airlift capability;

(3) that the magnitude and characteristics of military cargo and material to be transported by air to such areas are sufficiently well defined to provide clear justification and design parameters for such aircraft; and

(4) that plans for such aircraft are sufficiently well developed to make such full-scale engineering development both economical and technically feasible.

Study.

(b) The Secretary of Defense shall conduct a study to determine overall United States military mobility requirements. Such study shall include an analysis of the total mix of airlift, sealift, and prepositioning of war materials required for the United States to respond to military contingencies in the Indian Ocean area and other areas of potential conflict during the decade of the 1980's. The Secretary shall submit a report to the Committees on Armed Services of the Senate and House of Representatives not later than February 1, 1981, on the results of such study, together with such comments and recommendations as the Secretary considers appropriate, including recommendations for specific programs to provide an adequate overall military transportation capacity for the United States.

Report to congressional committees.

(c) Not more than $35,000,000 of the funds authorized to be appropriated by this title may be obligated or expended for the C-X aircraft program. Of such amount, not more than $15,000,000 may be obligated or expended before February 1, 1981, and the remainder of such amount may be obligated or expended only after the expiration of 60 days following the submission to the Congress of the report required by subsection (b).

Expiration date.

MULTI-ROLE STRATEGIC BOMBER

SEC. 204. (a) The Secretary of Defense shall vigorously pursue full-scale engineering development of a strategic multi-role bomber which maximizes range, payload, and ability to perform the missions of conventional bomber, cruise missile launch platform, and nuclear weapons delivery system in both the tactical and strategic role.

(b) Of the funds authorized to be appropriated for the Air Force under this title, $300,000,000 may be obligated or expended for full-scale development, following compliance with subsection (c), of a multi-role bomber aircraft to achieve an Initial Operational Capability as soon as practicable, consistent with the aircraft selected, but not later than 1987. Such aircraft shall have the capability of performing the missions of conventional bomber, cruise missile launch platform, and nuclear weapons delivery system.

Status report to congressional committees.

(c) The Secretary of Defense shall submit a status report to the Committees on Armed Services of the Senate and House of Repre

sentatives by March 15, 1981, on the results of the development effort to date. The Secretary shall include in such report comparisons of the various candidate aircraft in terms of cost and military effectiveness. Candidate aircraft shall include, but not be limited to, advanced technology aircraft, the B-1 bomber aircraft and derivatives of the B-1 aircraft, and the FB-111B/C aircraft.

EXTREMELY LOW FREQUENCY (ELF) COMMUNICATIONS SYSTEM

SEC. 205. (a) Notwithstanding the provisions of section 202 of the Department of Defense Appropriation Authorization Act, 1979 (Public Law 95-485; 92 Stat. 1612), and section 203 of the Department of Defense Authorization Act, 1980 (Public Law 96-107; 93 Stat. 805), the Secretary of the Navy shall resume research and development work on the Extremely Low Frequency (ELF) Communications System. Notwithstanding any provision of law restricting the availability of such funds, the Secretary of the Navy shall use any unobligated funds previously appropriated for such system for fiscal year 1979 for the purpose of resuming such work.

(b) Not later than April 1, 1981, the President shall submit to the Congress a plan for the deployment of an operational Extremely Low Frequency (ELF) Communications System. Plan, submittal to Congress.

RESTRICTION ON FUNDS FOR DEVELOPMENT OF THE 120-MILLIMETER TANK GUN

SEC. 206. Of the amount authorized to be appropriated for the Army by this title, not more than $62,061,000 is authorized for development of the 120-millimeter tank gun. However, none of such funds may be obligated or expended for development of such gun until (1) the Secretary of the Army prepares a plan on how the life-cycle costs for incorporating the 120-millimeter gun into the tank force of the Army can be reduced by $600,000,000 through efficient training practices, (2) the Secretary of Defense approves such plan, and (3) such plan is submitted to the Congress. Plan, submittal to Congress.

STUDY OF FAST LOGISTIC SURFACE EFFECT SHIP

SEC. 207. Of the funds appropriated to the Department of Defense for fiscal year 1980 which have not previously been obligated or expended, not more than $6,000,000 are available for study of a logistic surface effect ship weighing between 5,000 and 7,000 tons and capable of a speed of not less than 70 knots.

INCREASES IN DOLLAR CEILINGS FOR INDEPENDENT RESEARCH AND DEVELOPMENT COSTS AND BID AND PROPOSAL COSTS

SEC. 208. Section 203 of Public Law 91-441 (84 Stat. 906; 10 U.S.C. 2358 note) is amended—

(1) by striking out "$2,000,000" and "$250,000" in subsection (a)(1) and inserting in lieu thereof "$4,000,000" and "$500,000", respectively; and

(2) by adding at the end of such section the following new subsection:

"(f) On October 1, 1983, and once every three years thereafter, the Secretary of Defense may, based upon economic indices that the Secretary has selected, adjust the amounts in subsection (a)(1) of this section in accordance with economic changes reflected in those indices.".

TITLE III—ACTIVE FORCES

AUTHORIZATION OF END STRENGTHS

SEC. 301. The Armed Forces are authorized strengths for active duty personnel as of September 30, 1981, as follows:

(1) The Army, 775,300.
(2) The Navy, 537,456.
(3) The Marine Corps, 188,100.
(4) The Air Force, 564,500.

LIMITATION ON ENLISTMENT AND INDUCTION OF PERSONS INTO THE ARMED FORCES WHOSE SCORE ON THE ARMED FORCES QUALIFICATION TEST IS BELOW A PRESCRIBED LEVEL

10 USC 520 note.

SEC. 302. (a) The number of male individuals (with no prior military service) enlisted or inducted into the Army during the fiscal year beginning on October 1, 1980, who are not high school graduates may not exceed, as of September 30, 1981, 35 percent of all male individuals (with no prior military service) enlisted or inducted into the Army during such fiscal year.

(b)(1) Chapter 31 of title 10, United States Code, relating to enlistments in the Armed Forces, is amended by adding at the end thereof the following new section:

10 USC 520.

"§ 520. Limitation on enlistment and induction of persons whose score on the Armed Forces Qualification Test is below a prescribed level

"(a) For the fiscal year beginning on October 1, 1980, the total number of persons originally enlisted or inducted to serve on active duty (other than active duty for training) in the armed forces during such fiscal year whose score on the Armed Forces Qualification Test is at or above the tenth percentile and below the thirty-first percentile may not exceed 25 percent of the number of such persons enlisted or inducted into the armed forces during such fiscal year. For the fiscal year beginning on October 1, 1981, the number of persons originally enlisted or inducted to serve on active duty (other than active duty for training) in any armed force during such fiscal year whose score on the Armed Forces Qualification Test is at or above the tenth percentile and below the thirty-first percentile may not exceed 25 percent of the number of such persons enlisted or inducted into such armed force during such fiscal year. For any fiscal year beginning after September 30, 1982, the number of persons originally enlisted or inducted to serve on active duty (other than active duty for training) in any armed force during such fiscal year whose score on the Armed Forces Qualification Test is at or above the tenth percentile and below the thirty-first percentile may not exceed 20 percent of the number of such persons enlisted or inducted into such armed force during such fiscal year.

Waiver.

"(b) When the Secretary of Defense determines that, because of national security reasons, the limitation contained in subsection (a) should not be effective for any fiscal year, the Secretary may waive such limitation for such fiscal year to the extent he considers necessary, but any such waiver shall be effective only if—

"(1) the Secretary notifies the Congress in writing of such determination, of the reasons therefor, and the extent to which he proposes to waive such limitation; and

"(2) the Congress adopts a concurrent resolution stating in substance that it approves the proposed waiver.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new item:

"520. Limitation on enlistment and induction of persons whose score on the Armed Forces Qualification Test is below a prescribed level.".

Report to congressional committees.

(c) The Secretary of Defense shall report to the Committees on Armed Services of the Senate and House of Representatives at the end of each quarter of fiscal year 1981 whether the requirements of section 520 of title 10, United States Code, as added by subsection (b), have a negative impact on combat readiness.

Recruitment in secondary educational institutions. 10 USC 503 note.

(d) It is the sense of the Congress—

(1) that secondary educational institutions in the United States, the Commonwealth of Puerto Rico, and the territories of the United States should cooperate with the Armed Forces by allowing recruiting personnel access to such institutions; and

(2) that it is appropriate for such institutions to release to the Armed Forces information regarding students at such institutions (including such data as names, addresses, and education levels) which is relevant to recruiting individuals for service in the Armed Forces.

COMPREHENSIVE MANPOWER MOBILIZATION PLAN

Plan, submittal to Congress.

SEC. 303. (a) The Secretary of Defense, in conjunction with the Director of Selective Service, shall prepare and submit to the Congress, not later than April 2, 1981, a comprehensive plan for the effective management during peacetime of the potential military manpower of the United States and for the effective mobilization during a war or national emergency of the military manpower and defense-related manpower of the United States. Such plan shall include—

Registration procedures. 50 USC app. 451.

(1) any new and improved procedures for the registration and classification of persons under the Military Selective Service Act, placing special emphasis on administrative and medical procedures that will result in more efficient and cost-effective screening of registrants;

Deferment.

(2) new categories and equitable standards for the deferment and exemption of persons from training and service under the Military Selective Service Act; and

(3) such other administrative changes considered necessary or appropriate to manage effectively during peacetime the potential military manpower of the United States and to mobilize effectively during a war or national emergency the military manpower and defense-related manpower of the United States.

Study.

(b) The Secretary of Defense and the Director of Selective Service shall conduct a study of the impact, if any, of the reinstatement of registration under the Military Selective Service Act, and the impact of implementing the plan described in subsection (a), on the recruitment and retention of personnel for the active duty and reserve forces of the United States. The Secretary of Defense shall submit the results of such study to the Congress not later than April 2, 1981.

Submittal to Congress.

Report to Congress.

(c) The Secretary of Defense shall submit a report to the Congress not later than January 31, 1981, containing the Secretary's projections for each of the five fiscal years 1981 through 1985 with respect to (1) the total manpower needs of each active duty and reserve component of the Armed Forces, and (2) the desired and planned characteristics (including educational attainment, mental ability,

marital status, sex, and other pertinent personal characteristics) for the personnel of each such component.

Study. Report to Congress.

(d) The Secretary of Defense shall conduct a study to identify the number of military personnel in each of the several skill categories needed to respond effectively in situations in which a military conflict is most likely to occur and shall submit a report to the Congress not later than April 2, 1981, containing the results of such study. Such report shall include (1) the estimated shortages in each skill category in each of the situations in which a military conflict is most likely to occur, (2) recommendations for the procedures necessary for locating and obtaining such additional skilled personnel as may be needed by the Armed Forces to respond effectively in such situations, and (3) such recommendations for changes in existing law as may be necessary to facilitate the compilation and maintenance of a current list of personnel who possess the skills required by the Armed Forces to respond effectively in such situations.

TITLE IV—RESERVE FORCES

AUTHORIZATION OF AVERAGE STRENGTHS

SEC. 401. (a) For fiscal year 1981, the Selected Reserve of the reserve components of the Armed Forces shall be programmed to attain average strengths of not less than the following:

(1) The Army National Guard of the United States, 371,300.
(2) The Army Reserve, 204,500.
(3) The Naval Reserve, 87,400.
(4) The Marine Corps Reserve, 33,700.
(5) The Air National Guard of the United States, 94,300.
(6) The Air Force Reserve, 58,800.
(7) The Coast Guard Reserve, 11,700.

(b) Within the average strengths prescribed in subsection (a), the reserve components of the Armed Forces are authorized, as of September 30, 1981, the following number of reserve component members to be serving on full-time active duty for the purpose of organizing, administering, recruiting, instructing, or training the reserve components:

(1) The Army National Guard of the United States, 10,159.
(2) The Army Reserve, 5,400.
(3) The Naval Reserve, 708.
(4) The Marine Corps Reserve, 67.
(5) The Air National Guard of the United States, 3,207.
(6) The Air Force Reserve, 698.

(c) The average strength prescribed by subsection (a) for the Selected Reserve of any reserve component shall be proportionately reduced by (1) the total authorized strength of units organized to serve as units of the Selected Reserve of such component which are on active duty (other than for training) at any time during the fiscal year, and (2) the total number of individual members not in units organized to serve as units of the Selected Reserve of such component who are on active duty (other than for training or for unsatisfactory participation in training) without their consent at any time during the fiscal year. Whenever such units or such individual members are released from active duty during any fiscal year, the average strength prescribed for such fiscal year for the Selected Reserve of such reserve component shall be proportionately increased by the total authorized strength of such units and by the total number of such individual members.

TITLE V—CIVILIAN PERSONNEL

AUTHORIZATION OF END STRENGTH

SEC. 501. (a) The Department of Defense is authorized a strength in civilian personnel, as of September 30, 1981, of 986,000.

(b) The strength for civilian personnel prescribed in subsection (a) shall be apportioned among the Department of the Army, the Department of the Navy (including the Marine Corps), the Department of the Air Force, and the agencies of the Department of Defense (other than the military departments) in such numbers as the Secretary of Defense shall prescribe. The Secretary of Defense shall report to the Congress within sixty days after the date of the enactment of this Act on the manner in which the initial allocation of civilian personnel is made among the military departments and the agencies of the Department of Defense (other than the military departments) and shall include the rationale for each allocation.

Report to Congress.

(c) In computing the strength for civilian personnel, there shall be included all direct-hire and indirect-hire civilian personnel employed to perform military functions administered by the Department of Defense (other than those performed by the National Security Agency) whether employed on a full-time, part-time, or intermittent basis, but excluding special employment categories for students and disadvantaged youth such as the stay-in-school campaign, the temporary summer aid program and the Federal junior fellowship program and personnel participating in the worker-trainee opportunity program. Personnel employed under a part-time career employment program established under section 3402 of title 5, United States Code, shall be counted as prescribed by section 3404 of that title. Whenever a function, power, or duty, or activity is transferred or assigned to a department or agency of the Department of Defense from a department or agency outside of the Department of Defense, or from another department or agency within the Department of Defense, the civilian personnel end strength authorized for such departments or agencies of the Department of Defense affected shall be adjusted to reflect any increases or decreases in civilian personnel required as a result of such transfer or assignment.

Employment.

5 USC 3404.

Transfer of functions.

(d) When the Secretary of Defense determines that such action is necessary in the national interest or if any conversion of commercial and industrial type functions from performance by Department of Defense personnel to performance by private contractors which was anticipated to be made during fiscal year 1981 in the Budget of the President submitted for such fiscal year is not determined to be appropriate for such conversion under established administrative criteria, the Secretary of Defense may authorize the employment of civilian personnel in excess of the number authorized by subsection (a), but such additional number may not exceed 2 percent of the total number of civilian personnel authorized for the Department of Defense by subsection (a). The Secretary of Defense shall promptly notify the Congress of any authorization to increase civilian personnel strength under this subsection.

Excess employees.

Notification of Congress.

(e) During fiscal year 1981, the Secretary of Defense shall manage the manpower resources of the Department of Defense in a manner that will insure that functions of the Department of Defense involving maintenance, construction, engineering acquisition, or repair activities will be provided civilian manpower resources sufficient to fulfill the work requirements for which funds have been appropri-

Manpower resources, management.

ated, on a schedule consistent with the requirements of national security and military readiness.

STRENGTHENING OF RESTRICTIONS ON CONVERSION OF PERFORMANCE OF COMMERCIAL AND INDUSTRIAL TYPE FUNCTIONS FROM DEPARTMENT OF DEFENSE PERSONNEL TO PRIVATE CONTRACTORS

10 USC 2304 note.

SEC. 502. (a) No commercial or industrial type function of the Department of Defense that on October 1, 1980, is being performed by Department of Defense personnel may be converted to performance by a private contractor—

(1) to circumvent any civilian personnel ceiling; or

(2) unless the Secretary of Defense provides to the Congress in a timely manner—

Notification of Congress.

(A) notification of any decision to study such commercial or industrial type function for possible performance by a private contractor;

Cost comparison.

(B) a detailed summary of a comparison of the cost of performance of such function by Department of Defense personnel and by private contractor which demonstrates that the performance of such function by a private contractor will result in a cost savings to the Government over the life of the contract and a certification that the entire cost comparison is available;

Certification of calculation.

(C) a certification that the Government calculation for the cost of performance of such function by Department of Defense personnel is based on an estimate of the most efficient and cost effective organization for performance of such function by Department of Defense personnel; and

Report.

(D) a report, to be submitted with the certification required by subparagraph (C), showing—

(i) the potential economic effect on employees affected, and the potential economic effect on the local community and Federal Government if more than 50 employees are involved, of contracting for performance of such function;

(ii) the effect of contracting for performance of such function on the military mission of such function; and

(iii) the amount of the bid accepted for the performance of such function by the private contractor whose bid is accepted and the cost of performance of such function by Department of Defense personnel, together with costs and expenditures which the Government will incur because of the contract.

Notification of Congress.

(b) If, after completion of the studies required for completion of the certification and report required by subparagraphs (C) and (D) of subsection (a)(2), a decision is made to convert to contractor performance, the Secretary of Defense shall notify Congress of such decision.

Report to Congress.

(c) The Secretary of Defense shall submit a written report to the Congress by February 1 of each fiscal year describing the extent to which commercial and industrial type functions were performed by Department of Defense contractors during the preceding fiscal year. The Secretary shall include in each such report an estimate of the percentage of commercial and industrial type functions of the Department of Defense that will be performed by Department of Defense personnel, and the percentage of such functions that will be performed by private contractors, during the fiscal year during which the report is submitted.

(d) This section shall take effect on October 1, 1980. Effective date.

TITLE VI—MILITARY TRAINING STUDENT LOADS

AUTHORIZATION OF TRAINING STUDENT LOADS

SEC. 601. (a) For fiscal year 1981, the components of the Armed Forces are authorized average military training student loads as follows:

(1) The Army, 53,128.
(2) The Navy, 64,545.
(3) The Marine Corps, 21,393.
(4) The Air Force, 46,238.
(5) The Army National Guard of the United States, 7,177.
(6) The Army Reserve, 6,880.
(7) The Naval Reserve, 953.
(8) The Marine Corps Reserve, 3,144.
(9) The Air National Guard of the United States, 1,930.
(10) The Air Force Reserve, 1,139.

(b) In addition to the number authorized in subsection (a), the following components of the Armed Forces are authorized a military training student load to be utilized solely for one station unit training of not less than the following:

(1) The Army, 18,890.
(2) The Army National Guard of the United States, 6,839.
(3) The Army Reserve, 2,468.

(c) The average military training student loads for the Army, the Navy, the Marine Corps, and the Air Force and the reserve components authorized in subsection (a) for fiscal year 1981 shall be adjusted consistent with the manpower strengths authorized in titles III, IV, and V of this Act. Such adjustment shall be apportioned among the Army, the Navy, the Marine Corps, and the Air Force and the reserve components in such manner as the Secretary of Defense shall prescribe.

TEMPORARY REDUCTION IN THE NUMBER OF STUDENTS REQUIRED TO BE IN A UNIT OF THE JUNIOR RESERVE OFFICERS' TRAINING CORPS FOR THE UNIT TO BE MAINTAINED

SEC. 602. Notwithstanding the provisions of section 2031(b) of title 10, United States Code, relating to the establishment and maintenance of units of the Junior Reserve Officers' Training Corps, during the period beginning on September 1, 1980, and ending on August 31, 1981, the Secretary of any military department may maintain a unit of the Junior Reserve Officers' Training Corps at any public or private secondary educational institution if— 10 USC 2031 note.

(1) the number of physically fit students in such unit who are at least 14 years of age and are citizens or nationals of the United States is not less than (A) 10 percent of the number of students enrolled in the institution who are at least 14 years of age, or (B) 100, whichever is less; and

(2) the unit meets such other requirements (in addition to the requirements prescribed by section 2031(b) of title 10, United States Code) as may be established by the Secretary of the military department concerned.

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TITLE VII—ATTACK-RELATED CIVIL DEFENSE

AUTHORIZATION OF APPROPRIATIONS

SEC. 701. There is hereby authorized to be appropriated for fiscal year 1981 to carry out the provisions of the Federal Civil Defense Act of 1950 (50 U.S.C. App. 2251-2297) the sum of $120,000,000.

IMPROVED CIVIL DEFENSE PROGRAM

SEC. 702. (a) The Federal Civil Defense Act of 1950 (50 U.S.C. App. 2251-2297) is amended by adding after title IV the following new title:

"TITLE V—IMPROVED CIVIL DEFENSE PROGRAM

"SENSE OF CONGRESS

50 USC app. 2301.

"SEC. 501. (a) It is the sense of Congress that—

"(1) a civil defense program providing for the relocation of the population of risk areas, including the larger United States cities, during a period of strategic warning resulting from an international crisis may be effective in protecting the population;

"(2) the present civil defense program should be improved; and

"(3) an improved civil defense program can be developed which could enhance the civil defense capability of the United States.

"(b) It is further the sense of Congress that an improved civil defense program should be implemented which—

"(1) enhances the survivability of the American people and its leadership in the event of nuclear war and thereby improves the basis for eventual recovery and reduces the Nation's vulnerability to a major attack;

"(2) enhances deterrence, contributes to perceptions of the United States-Soviet strategic balance and crisis stability, and reduces the possibility that the United States might be susceptible to coercion by an enemy in times of increased tension;

"(3) does not suggest any change in the United States policy of relying on strategic nuclear forces as the preponderant factor in maintaining deterrence;

"(4) includes planning for the relocation of certain segments of the population during times of international crisis; and

"(5) is adaptable to help deal with natural disasters and other peacetime emergencies.

"ELEMENTS OF AN IMPROVED CIVIL DEFENSE PROGRAM

50 USC app. 2302.

"SEC. 502. (a) In order to carry out the sense of Congress expressed in section 501, the President shall, to the extent practicable, develop and implement an improved civil defense program which includes—

Attack- and disaster-related defense programs.

"(1) a program structure for the resources to be used for attack-related civil defense;

"(2) a program structure for the resources to be used for disaster-related civil defense; and

"(3) criteria and procedures under which those resources planned for attack-related civil defense and those planned for disaster-related civil defense can be used interchangeably.

"(b) In developing a program structure for attack-related civil defense pursuant to subsection (a), the President shall give consideration to including in such program structure the following elements:

"(1) Nuclear civil protection planning for more rapid population relocation during times of international crisis.

"(2) Nuclear civil protection planning for improved inplace population protection during times of international crisis in the event circumstances preclude population relocation.

"(3) A survey of the shelters inherent in existing facilities.

"(4) Planning for the development during times of crisis of additional shelter.

"(5) Development of capabilities for shelter management.

"(6) Marking and stocking of shelters.

"(7) Development and procurement of ventilation kits for shelters.

"(8) The development of emergency evacuation plans for areas in which nuclear powerplants are located.

"(9) The improvement of civil defense warning systems.

"(10) The improvement of systems and capabilities for direction and control of emergency operations by civil governments at all levels, including further development of a network of emergency operating centers.

"(11) The improvement of radiological defense capabilities.

"(12) The improvement of emergency public information and training programs and capabilities.

"(13) The development of plans for postattack economic recovery and the development of plans for postdisaster economic recovery to the extent that planning for postdisaster economic recovery planning does not detract from planning for postattack economic recovery.

"(14) The improvement of and training in self-help nuclear war survival skills.

"(15) Civil defense-related research and development.

"(16) The development of other appropriate systems and capabilities to increase the lifesaving potential of the civil defense program.

"ADMINISTRATIVE PROVISIONS

"SEC. 503. The powers contained in titles II and IV of this Act shall be used in developing and implementing the program required by section 502.". 50 USC app. 2303. 50 USC app. 2281, 2253.

(b) The table of contents at the beginning of such Act is amended by adding at the end thereof the following:

"TITLE V—IMPROVED CIVIL DEFENSE PROGRAM

"Sec. 501. Sense of Congress.
"Sec. 502. Elements of an improved civil defense program.
"Sec. 503. Administrative provisions.".

REQUIREMENT FOR MATCHING FUNDS FOR CONSTRUCTION OF EMERGENCY OPERATING CENTERS

SEC. 703. (a)(1) Title II of the Federal Civil Defense Act of 1950 (50 U.S.C. App. 2281-2286) is amended by adding at the end thereof the following new section:

"REQUIREMENT FOR STATE MATCHING FUNDS FOR CONSTRUCTION OF EMERGENCY OPERATING CENTERS

"SEC. 206. Notwithstanding any other provision of this Act, funds appropriated to carry out this Act may not be used for the purpose of 50 USC app. 2288.

constructing emergency operating centers (or similar facilities) in any State unless such State matches in an equal amount the amount made available to such State under this Act for such purpose.".

(2) The table of contents at the beginning of such Act is amended by adding below the item relating to section 205 the following new item:

"206. Requirement for State matching funds for construction of emergency operating centers.".

Effective date. 50 USC app. 2288 note.

(b) The amendments made by subsection (a) shall take effect on October 1, 1980.

PILOT PROGRAM TO STUDY DESIGN AND CONSTRUCTION OF BUILDINGS TO MINIMIZE EFFECTS OF NUCLEAR EXPLOSIONS

50 USC app. 2281 note.

SEC. 704. (a) The Director of the Federal Emergency Management Agency shall establish a pilot program of designing and constructing buildings to enhance the ability of the buildings to withstand nuclear explosions and to minimize the damage to such buildings caused by a nuclear explosion. Such program shall include the designing and constructing of at least two building projects chosen by the Director so that the buildings in the projects will be able to better withstand nuclear explosions and so that any damage to the buildings in the project caused by a nuclear explosion will be minimized.

Report to Congress.

(b) The Director of the Federal Emergency Management Agency shall submit a report to the Senate and the House of Representatives not later than April 1, 1981, on the establishment under subsection (a) of the pilot program.

Appropriation authorization.

(c) Of the sums authorized to be appropriated under section 701, $400,000 shall be available to carry out the pilot program established pursuant to subsection (a).

Effective date.

(d) This section shall take effect on October 1, 1980.

AUTHORIZATION TO ACQUIRE CERTAIN LEASED REAL PROPERTY AT THE FEDERAL EMERGENCY MANAGEMENT AGENCY FACILITY AT OLNEY, MARYLAND

Effective date.

SEC. 705. Effective October 1, 1980, the Director of the Federal Emergency Management Agency is authorized to acquire, in accordance with the provisions of section 201(h) of the Federal Civil Defense Act of 1950 (50 U.S.C. App. 2281(h)), fee title to those parcels of real property which are currently leased by such agency at the facility of such agency in Olney, Maryland, which (1) are used as a site for a communications antenna, or (2) contain the water wells for such facility.

TITLE VIII—COMPENSATION AND RELATED BENEFITS

PAY INCREASE OF 11.7 PERCENT FOR MEMBERS OF THE UNIFORMED SERVICES

37 USC 1009 note.

SEC. 801. (a) Any adjustment required under the provisions of section 1009 of title 37, United States Code, relating to adjustments in the compensation of members of the uniformed services, which would otherwise first become effective beginning with any pay period in fiscal year 1981 shall not become effective.

Effective date.

(b)(1) Subject to the provisions of paragraph (2), each element of compensation specified in section 1009(a) of title 37, United States Code, shall be increased for members of the uniformed services by

11.7 percent effective with the first pay period beginning after September 30, 1980.

(2) The President may allocate the percentage increase specified under paragraph (1) in the same manner and to the same extent the President is authorized under subsections (c) and (d) of section 1009 of title 37, United States Code, as amended by section 803 of this Act, to allocate any percentage increase described in subsection (b)(3) of section 1009 of such title, except that— *Infra.* 37 USC 1009.

(A) the provisions of subsection (d)(2)(B) of such section shall not apply to this subsection or any action of the President under this subsection; and

(B) the overall average percentage increase in the elements of compensation specified in subsection (a) of such section in the case of any member of the uniformed services with four years or less service may not exceed 11.7 percent.

RECOMMENDATIONS WITH RESPECT TO METHOD OF ADJUSTMENT OF MILITARY PAY

SEC. 802. The President shall submit to the Congress not later than April 1, 1981, such recommendations as he considers necessary or appropriate to improve the method for determining adjustments in the pay and allowances for members of the uniformed services. Submittal to Congress.

AUTHORITY TO ALLOCATE PAY INCREASES AMONG PAY GRADES AND YEARS-OF-SERVICE CATEGORIES

SEC. 803. Section 1009 of title 37, United States Code, relating to adjustments in compensation, is amended—

(1) by striking out "subsection (c)" in clause (3) of subsection (b) and inserting in lieu thereof "subsections (c) and (d) of this section,";

(2) in subsection (c)—

(A) by inserting "(1)" before "Whenever";

(B) by inserting "of this section" after "subsection (b)(3)" both places it appears and after "subsection (a)"; and

(C) by striking out "per centum" and inserting in lieu thereof "percent";

(3) by redesignating subsection (d) as paragraph (2) and in such paragraph (as so redesignated)—

(A) by striking out "under subsection (c)" both places it appears and inserting in lieu thereof "under paragraph (1) of this subsection";

(B) by inserting "of this section" after "subsection (a)" and after "subsection (b)(3)"; and

(C) by inserting "of this title" after "section 403 (b) or (c)" both places it appears;

(4) by inserting after subsection (c) the following new subsection (d):

"(d)(1) Subject to paragraph (2) of this subsection, whenever the President determines such action to be in the best interest of the Government, he may allocate the overall percentage increase in the element of basic pay that would otherwise be effective after any allocation made under subsection (c) of this section among such pay grade and years-of-service categories as he considers appropriate.

"(2) In making any allocation of an overall percentage increase in basic pay under paragraph (1) of this subsection—

"(A) the amount of the increase in basic pay for any given pay grade and years-of-service category after any allocation made under this subsection or under subsection (c) of this section (or under both such subsections) may not be less than 75 percent of the amount of the increase in the element of basic pay that would otherwise have been effective with respect to such pay grade and years-of-service category under subsection (b)(3) of this section; and

"(B) the overall percentage increase in the elements of compensation specified in subsection (a) of this section in the case of any member of the uniformed services with four years or less service may not exceed the overall percentage increase in the General Schedule rates of basic pay for civilian employees.";

(5) in subsection (e)—

(A) by inserting "or (d) of this section" after "subsection (c)"; and

(B) by striking out "among the different elements of compensation"; and

(6) in subsection (f)—

(A) by striking out "among the three elements of compensation"; and

(B) by inserting "of this title" after "section 1008(b)".

37 USC 1008.

ENLISTMENT AND REENLISTMENT BONUSES FOR ACTIVE FORCES

SEC. 804. (a)(1) Subsection (a) of section 308 of title 37, United States Code, relating to reenlistment bonuses, is amended—

(A) by striking out "ten years" in clause (A) and inserting in lieu thereof "fourteen years";

(B) by striking out "$15,000" and inserting in lieu thereof "$20,000"; and

(C) by striking out "twelve years" and inserting in lieu thereof "sixteen years".

(2) Subsection (f) of such section is amended by striking out "September 30, 1980" and inserting in lieu thereof "September 30, 1982".

37 USC 308a.

(b)(1) Subsection (a) of section 308a of such title, relating to enlistment bonuses, is amended by striking out "$3,000" and inserting in lieu thereof "$5,000".

(2) Subsection (c) of such section is amended by striking out "September 30, 1980" and inserting in lieu thereof "September 30, 1982".

Effective date.
37 USC 308 note.

(c) The amendments made by this section shall only apply to enlistments, reenlistments, and extensions of enlistments made after September 30, 1980.

ENLISTMENT AND REENLISTMENT BONUSES FOR RESERVE FORCES

SEC. 805. (a)(1) Chapter 5 of title 37, United States Code, relating to special and incentive pays, is amended by inserting after section 308c the following new sections:

37 USC 308d.

"§ 308d. Special pay: bonus for enlistment, reenlistment, or extension of enlistment in elements of the Ready Reserve other than the Selected Reserve

"(a)(1) Except as provided in paragraph (2) of this subsection, any person who enlists or reenlists, or voluntarily extends an enlistment, in an element (other than the Selected Reserve) of the Ready Reserve

of an armed force for a period of not less than three years may be paid a bonus as provided in subsection (b) of this section.

"(2) A bonus may not be paid under this section to any person who failed to complete satisfactorily any original term of enlistment in the armed forces.

Eligibility.

"(b) Eligibility for a bonus under this section, and the amount and method of payment of such a bonus, shall be determined in accordance with regulations prescribed under subsection (c) of this section, except that the amount of such a bonus may not exceed $600.

Regulations.

"(c) This section shall be administered under regulations prescribed by the Secretary of Defense for the armed forces under his jurisdiction and by the Secretary of Transportation for the Coast Guard when it is not operating as a service in the Navy.

Refund to U.S.

"(d)(1) A member who receives a bonus payment under this section and who fails during the period for which the bonus was paid to serve satisfactorily in the element of the Ready Reserve with respect to which the bonus was paid shall refund to the United States an amount which bears the same ratio to the amount of the bonus paid to such member as the period which such member failed to satisfactorily serve bears to the total period for which the bonus was paid.

"(2) An obligation to reimburse the United States imposed under paragraph (1) of this subsection is for all purposes a debt owed to the United States.

Discharge in bankruptcy. 11 USC 101.

"(3) A discharge in bankruptcy under title 11 that is entered less than 5 years after the termination of an agreement under this section does not discharge the member signing such agreement from a debt arising under such agreement or under paragraph (1) of this subsection. This paragraph applies to any case commenced under title 11 after September 30, 1980.

Restriction.

"(e) No bonus may be paid under this section to any person for an enlistment, reenlistment, or voluntary extension of an enlistment after September 30, 1981.

37 USC 308e.

"§ 308e. Special pay: bonus for reserve affiliation agreement

"(a) Under regulations prescribed by the Secretary of Defense, the Secretary of a military department may pay a bonus for reserve affiliation to any person—

"(1) who—

"(A) is serving on active duty, has 180 days or less remaining of his active duty obligation, and upon discharge or release from active duty upon the completion of such active duty obligation will have a reserve service obligation under section 651 of title 10 or under section 6(d)(1) of the Military Selective Service Act (50 U.S.C. App. 456(d)(1)); or

"(B) has served on active duty for any period of time, was discharged or released from such active duty under honorable conditions, and is serving a period of reserve service obligation under section 651 of title 10 or section 6(d)(1) of the Military Selective Service Act (50 U.S.C. App. 456(d)(1)); and

"(2) who meets the requirements of subsection (b) of this section.

Eligibility.

"(b) To be eligible to receive a bonus for reserve affiliation under this section, a person must—

"(1) be eligible for reenlistment or for an extension of his active duty service;

"(2) have completed satisfactorily any term of enlistment or period of obligated active duty service;

"(3) hold and be qualified in a military specialty designated by the Secretary of Defense for the purposes of this section;

"(4) have a grade for which there is a vacancy in the reserve component in which the person is to become a member;

"(5) not be affiliating in a reserve component to become a Reserve, Army National Guard, or Air National Guard technician;

"(6) enter into a written agreement with the Secretary concerned to serve as a member of the Selected Reserve of the Ready Reserve of an armed force for the period of obligated reserve service such person has remaining or, if such person is on active duty, will have remaining at the time of his discharge or release from active duty; and

"(7) meet all the other requirements for becoming a member of the Selected Reserve of the Ready Reserve of an armed force.

Determination of amount.

"(c)(1) The amount of the bonus paid to any person under this section shall be an amount determined by multiplying $25 times the number of months of reserve obligation such person has remaining or, if such person is on active duty, will have remaining at the time of his discharge or release from active duty.

"(2) In the case of a person who has, or at the time of discharge or release from active duty will have, eighteen months or less reserve service obligation remaining, the Secretary concerned may pay the total amount of the bonus at the time such person signs a reserve affiliation agreement under this section. In the case of a person who has, or at the time of discharge or release from active duty will have, more than eighteen months of such service remaining, the Secretary concerned may pay one-half of the bonus at the time such person signs a reserve affiliation agreement under this section and the remaining one-half on the date of the fifth anniversary of such person's original enlistment or call to active duty.

Refund to U.S.

"(d)(1) A person who signs a reserve affiliation agreement under this section and who fails during the period covered by such agreement to serve satisfactorily in the Selected Reserve in which such person agrees to serve shall refund to the United States an amount which bears the same ratio to the amount of the bonus paid to such person as the period which such person failed to satisfactorily serve bears to the total period for which the bonus was paid.

"(2) An obligation to reimburse the United States imposed under paragraph (1) of this subsection is for all purposes a debt owed to the United States.

Discharge in bankruptcy. 11 USC 101.

"(3) A discharge in bankruptcy under title 11 that is entered less than 5 years after the termination of an agreement under this section does not discharge the person signing such agreement from a debt arising under such agreement or under paragraph (1) of this subsection. This paragraph applies to any case commenced under title 11 after September 30, 1980.

Restriction.

"(e) No bonus may be paid under this section to any person for a reserve obligation agreement entered into after September 30, 1981.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 308c the following new items:

"308d. Special pay: bonus for enlistment, reenlistment, or extension of enlistment in elements of the Ready Reserve other than the Selected Reserve.
"308e. Special pay: bonus for reserve affiliation agreement.".

Effective date. 37 USC 308d note. *Ante*, p. 1092.

(3) Section 308d of title 37, United States Code, as added by paragraph (1), shall apply only to enlistments, reenlistments, and extensions of enlistments made after September 30, 1980. Agree-

ments may not be entered into under section 308e of such title, as added by such paragraph, before October 1, 1980.

Ante, p. 1093.

(b) Sections 308b(g) and 308c(f) of such title, relating to reenlistment and enlistment bonuses for members of the Selected Reserve of the Ready Reserve, are amended by striking out "September 30, 1980" and inserting in lieu thereof "September 30, 1985".

37 USC 308b, 308c.

CONTINUATION BONUS FOR AVIATION CAREER OFFICERS

SEC. 806. (a)(1) Chapter 5 of title 37, United States Code, is amended by inserting after section 301a the following new section:

"§ 301b. Special pay: aviation career officers extending period of active duty

37 USC 301b.

"(a) Under regulations prescribed by the Secretary of Defense, or by the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy, an officer of a uniformed service who—

"(1) is entitled to aviation career incentive pay under section 301a of this title;

"(2) is in a pay grade below the pay grade of O-7;

"(3) is qualified to perform operational flying duty (as such term is defined in clause (6) of section 301a(a) of this title);

"(4) has at least 6 but less than 18 years of aviation service as an officer;

"(5) executes a written agreement to remain on active duty in aviation service for at least one year; and

"(6) is in an aviation specialty designated as critical;

may, upon the acceptance of the written agreement by the Secretary of Defense or the Secretary of Transportation, as applicable, be paid an amount not to exceed the product of four months' basic pay (computed at the rate applicable to the officer at the time the agreement is executed) and the number of years (or the monthly fractions thereof) that the officer agrees to remain on active duty under the agreement. An agreement under this section may not extend beyond the date on which the officer would complete 19 years of aviation service. Upon acceptance of the agreement by the Secretary of Defense or the Secretary of Transportation, as appropriate, and subject to subsection (d) of this section, the total amount payable becomes fixed and may be paid in either a lump sum or in installments.

"(b) Special pay under this section is in addition to any other pay and allowances to which an officer is entitled.

"(c) For the purpose of this section, the term 'aviation service' means the service performed by an officer holding an aeronautical rating or designation (except a flight surgeon or other medical officer) under regulations prescribed by the Secretary of Defense or the Secretary of Transportation. The years of aviation service are computed beginning with the effective date of the initial order to perform aviation service.

"Aviation service."

"(d)(1) Under regulations prescribed by the Secretary of Defense or by the Secretary of Transportation, as appropriate, refunds shall be required, on a pro-rata basis, of sums paid under this section if the officer who has received the payment fails to complete the total period of active duty in aviation service specified in the agreement. Nothing in this section shall alter or modify the obligation of a regular officer to perform active service at the pleasure of the President. Completion of the agreed-upon period of active duty in

Refund to U.S.

aviation service under this section shall not obligate the President to accept a resignation submitted by a regular officer.

"(2) An obligation to reimburse the United States imposed under paragraph (1) of this subsection is for all purposes a debt owed to the United States.

Discharge in bankruptcy. 11 USC 101.

"(3) A discharge in bankruptcy under title 11 that is entered less than 5 years after the termination of an agreement under this section does not discharge the member signing such agreement from a debt arising under such agreement or under paragraph (1) of this subsection. This paragraph applies to any case commenced under title 11 after September 30, 1980.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 301a the following new item:

"301b. Special pay: aviation career officers extending period of active duty.".

Effective date. 37 USC 301b note.

(b) Agreements may not be entered into under section 301b of title 37, United States Code, as added by subsection (a), before October 1, 1980.

PER DIEM ALLOWANCE FOR MEMBERS TRAVELING ON OFFICIAL BUSINESS

SEC. 807. (a) Section 404(d) of title 37, United States Code, relating to per diem travel and transportation expenses, is amended by striking out "$35" and "$50" and inserting in lieu thereof "$50" and "$75", respectively.

Effective date. 37 USC 404 note.

(b) The amendments made by subsection (a) shall only apply to travel and transportation expenses incurred after September 30, 1980.

EXPENSES FOR TRANSPORTATION OF HOUSE TRAILERS AND MOBILE HOMES

SEC. 808. (a)(1) Section 409 of title 37, United States Code, is amended to read as follows:

"§ 409. Travel and transportation allowances: house trailers and mobile homes

37 USC 406.

"(a)(1) A member, or in the case of a member's death, the member's dependent, who would otherwise be entitled to transportation of baggage and household effects under section 406 of this title, may be provided transportation of a house trailer or mobile home dwelling within the continental United States, within Alaska, or between the continental United States and Alaska (or reimbursement for such transportation), if the house trailer or mobile home dwelling is intended for use as a residence by such member or dependent. Such transportation may be limited to such modes and maximum costs as may be prescribed by regulations under subsection (d) of this section.

"(2) Except as provided in subsection (c) of this section, transportation of a house trailer or mobile home dwelling under paragraph (1) of this subsection is in place of the transportation of baggage and household effects the member or member's dependent would otherwise be entitled to have provided.

"(3) The cost of transportation of a house trailer or mobile home dwelling under paragraph (1) of this subsection may not be more than the total cost of transportation (including packing, pick-up, line-haul or drayage, delivery, and unpacking) of baggage and household effects of the member or dependent having the maximum weight

authorized for the member or dependent under regulations prescribed by the Secretary concerned.

"(4) A house trailer or mobile home dwelling in transit under this section may be stored up to 180 days in accordance with regulations prescribed by the Secretary concerned.

"(b) Any payment authorized by this section may be made in advance of the transportation concerned.

"(c) A member or member's dependent who is entitled to the transportation of baggage and household effects from a place inside the continental United States or Alaska to a place outside the continental United States or Alaska, or from a place outside the continental United States or Alaska to a place inside the continental United States or Alaska, may be provided the transportation of a house trailer or mobile home dwelling under this section, but the total cost to the Government of the transportation of baggage and household effects and the transport of a house trailer or mobile home dwelling may not exceed the cost of transporting baggage and household effects of the member or dependent having the maximum weight authorized for the member or dependent under regulations prescribed by the Secretary concerned.

"(d) The Secretaries concerned shall prescribe regulations to carry out this section. Regulations.

"(e) In this section, 'continental United States' means the 48 contiguous States and the District of Columbia.". "Continental United States."

(2) The item relating to section 409 in the table of sections at the beginning of chapter 7 of such title is amended to read as follows:

"409. Travel and transportation allowances: house trailers and mobile homes.".

(b) The amendments made by subsection (a) shall only apply to transportation of house trailers and mobile home dwellings which is completed after September 30, 1980. Effective date. 37 USC 409 note.

FAMILY SEPARATION ALLOWANCE FOR JUNIOR ENLISTED MEMBERS

SEC. 809. (a) Section 427(b) of title 37, United States Code, relating to family separation allowance, is amended by striking out "(other than a member in pay grade E-1, E-2, E-3, or E-4 (4 years' or less service))".

(b) The amendment made by subsection (a) shall take effect with respect to months after September 1980. Effective date. 37 USC 427 note.

IMPROVEMENT IN CERTAIN BENEFITS UNDER THE CHAMPUS PROGRAM

SEC. 810. (a) Subsection (a) of section 1079 of title 10, United States Code, relating to contracts for medical care for dependents of members on active duty, is amended—

(1) by inserting "of dependents over two years of age" in clause (2) after "immunizations"; and

(2) by striking out "routine care of the newborn, well-baby care, and" in clause (3).

(b) Subsection (e)(2) of such section is amended by striking out "$350" and inserting in lieu thereof "$1,000".

(c) The amendments made by this section shall apply to medical care provided after September 30, 1980. Effective date. 10 USC 1079 note.

SUBSISTENCE ALLOWANCES FOR MEMBERS OF MARINE CORPS OFFICER CANDIDATE PROGRAMS

SEC. 811. (a) Section 209 of title 37, United States Code, relating to members of precommissioning programs, is amended by adding at the end thereof the following new subsection:

"(d)(1) Except when serving on active duty, a member who is enrolled in a Marine Corps officer candidate program which requires a baccalaureate degree as a prerequisite to being commissioned as an officer and who is not enrolled in a program established under chapter 103 of title 10 or an academy established under chapter 403, 603, or 903 of title 10 may be paid a subsistence allowance at the same rate as that prescribed by subsection (a) of this section for a member of the Senior Reserve Officers' Training Corps who is selected for advanced training under section 2104 of title 10.

10 USC 2101 *et seq.*
10 USC 4331 *et seq.*, 6951 *et seq.*, 9331 *et seq.*

"(2) No subsistence allowance may be paid under paragraph (1) of this subsection for any period after September 30, 1982."

Restriction.

(b) The Act entitled "An Act to provide subsistence allowances for members of the Marine Corps officer candidate programs", approved November 24, 1971 (37 U.S.C. 209 note), is repealed.

Repeal.

CONTINGENT ONCE-A-YEAR ADJUSTMENT OF RETIRED AND RETAINER PAY

SEC. 812. (a)(1) The increase in the retired and retainer pay of members and former members of the uniformed services which but for this section would be made effective September 1, 1980, under the provisions of paragraph (2)(B) of section 1401a(b) of title 10, United States Code, shall not be made.

10 USC 1401a note.

(2)(A) In making the determination required by the provisions of paragraph (1)(A) of section 1401a(b) of title 10, United States Code, to be made on January 1, 1981, or within a reasonable time thereafter, the Secretary of Defense shall determine the percent change in the index (as such term is defined in section 1401a(a) of title 10, United States Code) published for December 1980 over the index published for December 1979 (rather than over the index published for June 1980).

(B) The increase in the retired and retainer pay of members and former members of the uniformed services to be made effective March 1, 1981, under the provisions of paragraph (2)(A) of such section shall, in lieu of the increase prescribed by such paragraph, be the percent change computed under subparagraph (A), adjusted to the nearest 1/10 of one percent.

(3) The President shall by Executive order provide for only one cost-of-living adjustment in the annuities paid under the Central Intelligence Agency Act of 1964 for Certain Employees (50 U.S.C. 403 note) during the period beginning on September 1, 1980, and ending on August 31, 1981. Such adjustment shall be effective March 1, 1981, and shall be made in the same manner and percentage as the adjustment provided for in paragraphs (1) and (2) for the retired and retainer pay of members and former members of the uniformed services.

Executive order.

(4) Paragraphs (1), (2), and (3) shall not take effect unless similar legislation is enacted which provides for only one cost-of-living increase in annuities paid under subchapter III of chapter 83 of title 5, United States Code, during the period beginning on September 1, 1980, and ending on August 31, 1981.

Restriction.

5 USC 8331.

(b)(1) Effective August 31, 1981, but subject to paragraph (3), section 1401a(b) of title 10, United States Code, relating to adjustment of

Effective date.

retired pay and retainer pay to reflect changes in the Consumer Price Index, is amended to read as follows:

"(b) Each time that an increase is made under section 8340(b) of title 5 in annuities paid under subchapter III of chapter 83 of such title, the Secretary of Defense shall at the same time increase the retired and retainer pay of members and former members of the armed forces by the same percent as the percentage by which annuities are increased under such section.". 5 USC 8331.

(2) The amendment made by paragraph (1) shall not take effect unless legislation is enacted which provides for the adjustment of annuities paid under subchapter III of chapter 83 of title 5, United States Code, on a once-a-year basis. In the event such legislation is enacted, such amendment shall become effective with respect to adjustments in the retired pay and retainer pay of members and former members of the uniformed services at the same time that the legislation providing for such a once-a-year adjustment of annuities paid under subchapter III of chapter 83 of title 5, United States Code, becomes effective. Restriction. 10 USC 1401a note.

(3) If legislation described in paragraph (2) is enacted to provide for the adjustment of annuities paid under subchapter III of chapter 83 of title 5, United States Code, on a once-a-year basis, the President shall exercise the authority vested in him under section 292 of the Central Intelligence Agency Act of 1964 for Certain Employees (50 U.S.C. 403 note) to provide for cost-of-living adjustments in the annuities paid under such Act on an identical basis.

(4) If at the time the first adjustment in retired and retainer pay is made under section 1401a(b) of title 10, United States Code, as amended by paragraph (1) of this subsection, the period upon which the most recent adjustment in such retired and retainer pay was computed is not identical to the period upon which the most recent adjustment in annuities under subchapter III of chapter 83 of title 5, United States Code, was computed, then the percentage increase to be made under such section 1401a(b) at the time of the first such adjustment shall be computed in the same manner as the percentage increase made at the same time in annuities under subchapter III of chapter 83 of title 5, United States Code, is computed, but shall be based on the period beginning on the last day of the period upon which the most recent adjustment in such retired and retainer pay was computed and ending on the last day of the period upon which the adjustment being made at the same time in annuities under such subchapter III is computed. The President shall by Executive order provide for a similar computation of the adjustment in annuities paid under the Central Intelligence Agency Act of 1964 for Certain Employees (50 U.S.C. 403 note) which is made at the same time as the increase in retired and retainer pay to which the preceeding sentence is applicable. Executive order.

(c) For the purposes of this section, the term "uniformed services" means— "Uniformed services."

(1) the Armed Forces; and

(2) the commissioned corps of the National Oceanic and Atmospheric Administration and of the Public Health Service.

CHANGE IN METHOD OF COMPUTATION OF RETIRED PAY FOR PERSONS BECOMING MEMBERS OF THE UNIFORMED SERVICES AFTER THE ENACTMENT OF THIS ACT

SEC. 813. (a)(1) Chapter 71 of title 10, United States Code, relating to computation of retired pay, is amended by adding at the end thereof the following new section:

10 USC 1407.

"§ 1407. Retired pay base

"(a)(1) The retired pay or retainer pay of any person who first became a member of a uniformed service on or after the date of the enactment of the Department of Defense Authorization Act, 1981, is determined using the monthly retired pay base or monthly retainer pay base computed under this section. In making any computation under this section, the rates of basic pay to be used are those most favorable to the member.

Ante, p. 1077.

"(2) In this section, 'uniformed service' means—

"Uniformed service."

"(A) any of the armed forces;

"(B) the commissioned corps of the Public Health Service; or

"(C) the commissioned corps of the National Oceanic and Atmospheric Administration.

"(b)(1) In the case of a member who is retired under section 1201 or 1202 of this title, the monthly retired pay base is—

10 USC 1201, 1202.

"(A) one thirty-sixth of the total amount of monthly basic pay which the member received for any 36 months (whether or not consecutive) of active duty as a member of a uniformed service; or

"(B) in the case of a member who served on active duty for less than 36 months, the amount equal to the total amount of basic pay which the member received during the period he served on active duty as a member of a uniformed service divided by the number of months (including any fraction thereof) which he served on active duty.

"(2) In the case of a member who is retired under section 1204 or 1205 of this title, the monthly retired pay base is—

10 USC 1204, 1205.

"(A) one thirty-sixth of the total amount of monthly basic pay which the member would have received if he had served on active duty as a member of a uniformed service during any 36 months (whether or not consecutive) during the period he was a member of a uniformed service preceding the date on which he became entitled to retired pay; or

"(B) in the case of a member who was a member for less than 36 months, the amount equal to the total amount of basic pay which he would have received if he had served on active duty during the period he was a member of a uniformed service divided by the number of months (including any fraction thereof) he was such a member.

"(3) In the case of a member who is retired under section 1331 of this title, the monthly retired pay base is one thirty-sixth of the total amount of monthly basic pay to which the member would have been entitled during any 36 months (whether or not consecutive) during the period he was a member of a uniformed service had he served on active duty during such months.

10 USC 1331.

"(4) In the case of a member who is retired under section 564, 1263, 1293, or 1305 of this title, the monthly retired pay base is one thirty-sixth of the total amount of monthly basic pay which the member received for any 36 months (whether or not consecutive) of active duty as a member of a uniformed service.

10 USC 564, 1263, 1293, 1305.

"(5) In the case of a member whose retired or retainer pay is recomputed under section 1402a(d) of this title, the monthly retired

Post, p. 1102.

pay base is one thirty-sixth of the total amount of monthly basic pay which the member received for any 36 months (whether or not consecutive) of active duty as a member of a uniformed service.

"(c)(1) In the case of a member whose retired pay is computed under section 3991 of this title (other than a member who is retired under section 3914 of this title) or who is entitled to retired pay under section 3992 of this title, the monthly retired pay base is one thirty-sixth of the total amount of monthly basic pay which the member received for any 36 months (whether or not consecutive) of active duty as a member of a uniformed service. 10 USC 3991. 10 USC 3914. 10 USC 3992.

"(2) In the case of a member who is retired under section 3914 of this title, the monthly retired pay base is one thirty-sixth of the total amount of monthly basic pay which the member received for any 36 months (whether or not consecutive) of active duty as an enlisted member. 10 USC 3914.

"(d)(1) In the case of a member whose retired pay is computed under section 6322, 6323, 6325, 6326, 6381, 6383, 6390, 6394, 6396, 6398, or 6400 of this title or who is advanced on the retired list under section 6151 of this title, the monthly retired pay base is one thirty-sixth of the total amount of monthly basic pay which the member received for any 36 months (whether or not consecutive) of active duty as a member of a uniformed service. 10 USC 6322, 6323, 6325, 6326, 6381, 6383, 6390, 6394, 6396, 6398, 6400. 10 USC 6151.

"(2) In the case of a member transferred to the Fleet Reserve or Fleet Marine Corps Reserve under section 6330 of this title, the monthly retainer pay base is one thirty-sixth of the total amount of monthly basic pay which the member received for any 36 months (whether or not consecutive) of active duty as an enlisted member. 10 USC 6330.

"(e)(1) In the case of a member whose retired pay is computed under section 8991 of this title (other than a member who is retired under section 8914 of this title) or who is entitled to retired pay under section 8992 of this title, the monthly retired pay base is one thirty-sixth of the total amount of monthly basic pay which the member received for any 36 months (whether or not consecutive) of active duty as a member of a uniformed service. 10 USC 8991. 10 USC 8914. 10 USC 8992.

"(2) In the case of a member who is retired under section 8914 of this title, the monthly retired pay base is one thirty-sixth of the total amount of monthly basic pay which the member received for any 36 months (whether or not consecutive) of active duty as an enlisted member. 10 USC 8914.

"(f) In the case of a member who is retired under any section of title 14, the monthly retired pay base is one thirty-sixth of the total amount of monthly basic pay which the member received for any 36 months (whether or not consecutive) of active duty as a member of a uniformed service. 14 USC 1.

"(g) In the case of a member whose retired pay is computed under section 16 of the Coast and Geodetic Survey Commissioned Officers' Act of 1948 (33 U.S.C. 853o), the monthly retired pay base is one thirty-sixth of the total amount of monthly basic pay which the member received for any 36 months (whether or not consecutive) of active duty as a member of a uniformed service.

"(h) In the case of a member who is retired under section 210(g) or 211(a) of the Public Health Service Act (42 U.S.C. 211(g) and 212(a)), the monthly retired pay base is one thirty-sixth of the total amount of monthly basic pay which the member received for any 36 months (whether or not consecutive) of active duty as a member of a uniformed service.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new item:

"Sec. 1407. Retired pay base.".

(b)(1) The table contained in section 1401 of title 10, United States Code, is amended by striking out "Take" in the heading in column 1 and inserting in lieu thereof the following: "For a person who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) on or after the date of the enactment of the Department of Defense Authorization Act, 1981, take the monthly retired pay base as computed under section 1407(b). For all others, take".

Ante, p. 1100.
Ante, p. 1077.

(2) Section 1402 of such title is amended by inserting "who first became a member of the armed forces before the date of the enactment of the Department of Defense Authorization Act, 1981, and" in subsections (a), (b), and (c) after "of an armed force".

10 USC 1402.

(3)(A) Chapter 71 of such title is amended by inserting after section 1402 the following new section:

10 USC 1402a.

"§ 1402a. Recomputation of retired or retainer pay to reflect later active duty in case of members who first became members after the enactment of the Department of Defense Authorization Act, 1981

"(a) A member of an armed force who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) on or after the date of the enactment of the Department of Defense Authorization Act, 1981, who has become entitled to retired pay or retainer pay, and who thereafter serves on active duty (other than for training), is entitled to recompute his retired pay or retainer pay upon his release from that duty as follows:

Ante, p. 1100.
Ante, p. 1077.

Column 1 Take	Column 2 Multiply by	Column 3 Subtract
Monthly retired or retainer pay base under section 1407 of this title which he would be entitled to use if— (1) he were retiring upon release from that active duty; or (2) he were transferring to the Fleet Reserve or Fleet Marine Corps Reserve upon that release from active duty.	2½ percent of the sum of— (1) the years of service that may be credited to him in computing retired pay or retainer pay; and (2) his years of active service after becoming entitled to retired pay or retainer pay.[1]	Excess over 75 percent of monthly retired or retainer pay base upon which computation is based.

[1] Before applying the percentage factor, credit a part of a year that is six months or more as a whole year, and disregard a part of a year that is less than six months.

"(b) A member of an armed force who first became a member of a uniformed service on or after the date of the enactment of the Department of Defense Authorization Act, 1981, who has been retired other than for physical disability and who while on active duty incurs a physical disability of at least 30 percent for which he would otherwise be eligible for retired pay under chapter 61 of this title, is entitled, upon his release from active duty, to retired pay under subsection (d).

10 USC 1201 *et seq.*

"(c) A member of an armed force who first became a member of a uniformed service on or after the date of the enactment of the Department of Defense Authorization Act, 1981, and who— *Ante*, p. 1077.

"(1) was retired for physical disability under section 1201 or 1204 of this title or any other law or whose name is on the temporary disability retired list; 10 USC 1201, 1204.

"(2) incurs, while on active duty after retirement or after his name was placed on the temporary disability retired list, a physical disability that is in addition to or that aggravates the physical disability for which he was retired or for which his name was placed on that list; and

"(3) is qualified under section 1201, 1202, 1204, or 1205 of this title; 10 USC 1201, 1202, 1204, 1205.

is entitled, upon his release from active duty, to retired pay under subsection (d).

"(d) A member of an armed force covered by subsection (b) or (c) may elect to receive either (1) the retired pay to which he became entitled when he retired, increased by any applicable adjustments in that pay under section 1401a of this title after he initially became entitled to that pay, or (2) retired pay computed as follows: 10 USC 1401a.

Column 1 Take	Column 2 Multiply by	Column 3 Add	Column 4 Subtract
The monthly retired pay base computed under section 1407(b) of this title.	As member elects— (1) 2½ percent of years of service credited under section 1208 of this title; [1] or (2) the highest percentage of disability attained while on active duty after retirement or after the date when his name was placed on temporary disability retired list, as the case may be.	Amount necessary to increase product of columns 1 and 2 to 50 percent of pay upon which computation is based, if member is on temporary disability retired list.	Excess over 75 percent of monthly retired or retainer pay base upon which computation is based.

[1] Before applying percentage factor, credit a part of a year that is six months or more as a whole year, and disregard a part of a year that is less than six months.

"(e) Notwithstanding subsection (a), a member covered by that subsection may elect, upon his release from that active duty, to have his retired pay or retainer pay—

"(1) computed according to the formula set forth in subsection (a) but using the monthly retired pay base under which his retired pay or retainer pay was computed when he entered on that active duty; and

"(2) increased by any applicable adjustments in that pay under section 1401a of this title after he initially became entitled to that pay.".

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10 USC 1402.

(B) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1402 the following new item:

"Sec. 1402a. Recomputation of retired or retainer pay to reflect later active duty in the case of members who first became members after the enactment of the Department of Defense Authorization Act, 1981.".

10 USC 1373, 1403.

(C) Sections 1373 and 1403 of such title are amended by inserting "or 1402a(d)" after "1402(d)".

(D) The second sentence of section 205(a) of title 37, United States Code, is amended by inserting "and section 1402a(a)–(d)" after "1402(a)–(d)".

(c) The tables contained in sections 3991 and 3992 of title 10, United States Code, are amended by striking out "Take" in the heading in column 1 and inserting in lieu thereof the following: "For a person who first became a member of uniformed service (as defined in section 1407(a)(2) of this title) on or after the date of the enactment of the Department of Defense Authorization Act, 1981, take the monthly retired pay base as computed under section 1407(c). For all others, take".

Ante, p. 1100.
Ante, p. 1077.

(d)(1) Subsection (c) of section 6322 of title 10, United States Code, is amended to read as follows:

"(c) Each officer who is retired under this section is entitled to retired pay—

"(1) in the case of an officer who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) before the date of the enactment of the Department of Defense Authorization Act, 1981, at the rate of 75 percent of the highest basic pay of the grade in which retired; or

"(2) in the case of an officer who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) on or after the date of the enactment of the Department of Defense Authorization Act, 1981, at the rate of 75 percent of the monthly retired pay base computed under section 1407(d) of this title.".

10 USC 6323.

(2) Subsection (e) of section 6323 of such title is amended to read as follows:

"(e) Unless otherwise entitled to higher pay, an officer retired under this section is entitled to retired pay—

"(1) in the case of an officer who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) before the date of the enactment of the Department of Defense Authorization Act, 1981, at the rate of 2½ percent of the basic pay of the grade in which retired; or

"(2) in the case of an officer who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) on or after the date of the enactment of the Department of Defense Authorization Act, 1981, at the rate of 2½ percent of the monthly retired pay base computed under section 1407(d) of this title; multiplied by the number of years of service that may be credited to him under section 1405 of this title, but the retired pay so computed may not be more than 75 percent of the basic pay or monthly retired pay base upon which the computation of retired pay is based.".

10 USC 1405.

10 USC 6325.

(3)(A) Subsection (a)(2) of section 6325 of such title is amended to read as follows:

"(2) unless otherwise entitled to higher pay, is entitled to retired pay—

"(A) in the case of an officer who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) before the date of the enactment of the Department of

Defense Authorization Act, 1981, at the rate of 2½ percent of the basic pay of the grade in which he retired; or

"(B) in the case of an officer who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) on or after the date of the enactment of the Department of Defense Authorization Act, 1981, at the rate of 2½ percent of the monthly retired pay base computed under section 1407(d) of this title;

Ante, p. 1100.

Ante, p. 1077.

multiplied by the number of years of service that may be credited to him under section 1405 of this title, but the retired pay so computed may not be more than 75 percent of the basic pay or monthly retired pay base upon which the computation of retired pay is based.".

10 USC 1405.

(B) Subsection (b)(2) of such section is amended to read as follows:

"(2) unless otherwise entitled to higher pay, is entitled to retired pay—

"(A) in the case of an officer who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) before the date of the enactment of the Department of Defense Authorization Act, 1981, at the rate of 2½ percent of the basic pay of the grade he would hold if he had not received such an appointment; or

"(B) in the case of an officer who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) on or after the date of the enactment of the Department of Defense Authorization Act, 1981, at the rate of 2½ percent of the monthly retired pay base computed under section 1407(d) of this title;

multiplied by the number of years of service that may be credited to him under section 1405 of this title, but the retired pay so computed may not be more than 75 percent of the basic pay or monthly retired pay base upon which the computation of retired pay is based.".

(4) Clause (2) of section 6326(c) of such title is amended to read as follows:

10 USC 6326.

"(2) unless otherwise entitled to higher pay, is entitled to retired pay—

"(A) in the case of a person who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) before the date of the enactment of the Department of Defense Authorization Act, 1981, at the rate of 75 percent of the basic pay of the pay grade in which he was serving on the day before retirement or, if he has served as senior enlisted advisor of the Navy or as sergeant major of the Marine Corps, 75 percent of the highest basic pay to which he was entitled while so serving, if that rate is higher; or

"(B) in the case of a person who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) on or after the date of the enactment of the Department of Defense Authorization Act, 1981, computed by multiplying the monthly retired pay base computed under section 1407(d) of this title by 75 percent.".

10 USC 6330.

(5) Subsection (c) of section 6330 of such title is amended to read as follows:

"(c)(1) Each member who is transferred to the Fleet Reserve or the Fleet Marine Corps Reserve under this section is entitled, when not on active duty, to retainer pay—

"(A) in the case of a member who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) before the date of the enactment of the Department of Defense Authorization Act, 1981, at the rate of 2½ percent of the basic pay that he received at the time of transfer or, in the case of a member who has served as senior enlisted advisor of the Navy or sergeant major of the Marine Corps, of the highest basic pay to which he was entitled while so serving, if that basic pay is higher than the basic pay received at the time of transfer; or

Ante, p. 1100.

Ante, p. 1077.

"(B) in the case of a member who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) on or after the date of the enactment of the Department of Defense Authorization Act, 1981, at the rate of 2½ percent of the monthly retainer pay base computed under section 1407(d) of this title;

multiplied by the number of years of active service in the armed forces.

"(2) A member may recompute his retainer pay under section 1402 or 1402a of this title, as appropriate, to reflect active duty after transfer.

10 USC 1402, *ante*, p. 1102.

Extraordinary heroism.

"(3) If the member has been credited by the Secretary of the Navy with extraordinary heroism in the line of duty, which determination by the Secretary is final and conclusive for all purposes, his retainer pay shall be increased by 10 percent.

"(4) In no case may a member's retainer pay be more than 75 percent of the basic pay or monthly retainer pay base upon which the computation of retainer pay is based.".

10 USC 6381.

(6)(A) Subsection (a)(2) of section 6381 of such title is amended to read as follows:

"(2) is entitled to retired pay—

"(A) in the case of an officer who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) before the date of the enactment of the Department of Defense Authorization Act, 1981, at the rate of 2½ percent of the basic pay of the grade in which she retired; or

"(B) in the case of an officer who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) on or after the date of the enactment of the Department of Defense Authorization Act, 1981, at the rate of 2½ percent of the monthly retired pay base computed under section 1407(d) of this title;

multiplied by the number of years of service that may be credited to him under section 1405 of this title, but the retired pay may not be more than 75 percent of the basic pay or monthly retired pay base upon which the computation of retired pay is based.".

10 USC 1405.

(B) Subsections (b) and (c) of such section are amended by inserting "or monthly retired pay base, as the case may be," after "basic pay".

10 USC 6383.

(7) Section 6383(c)(2) of such title is amended to read as follows:

"(2) is entitled to retired pay—

"(A) in the case of an officer who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) before the date of the enactment of the Department of Defense Authorization Act, 1981, at the rate of 2½ percent of the basic pay to which he would be entitled if serving on active duty in the grade in which he retired; or

"(B) in the case of an officer who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) on or after the date of the enactment of the Department of Defense Authorization Act, 1981, at the rate of 2½

percent of the monthly retired pay base computed under section 1407(d) of this title; *Ante*, p. 1100.

multiplied by the number of years of service that may be credited to him under section 1405 of this title, but the retired pay may not be more than 75 percent of the basic pay or monthly retired pay base upon which the computation of retired pay is based.". 10 USC 1405.

(8) Section 6390(b)(2) of such title is amended to read as follows: 10 USC 6390.

"(2) to retired pay—

"(A) in the case of an officer who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) before the date of the enactment of the Department of Defense Authorization Act, 1981, at the rate of 2½ percent of the basic pay of the grade in which he retired; or

"(B) in the case of an officer who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) on or after the date of the enactment of the Department of Defense Authorization Act, 1981, at the rate of 2½ percent of the monthly retired pay base computed under section 1407(d) of this title; *Ante*, p. 1077.

multiplied by the number of years of service that may be credited to him under section 1405 of this title, but the retired pay may not be more than 75 percent of the basic pay or monthly retired pay base upon which the computation of retired pay is based.".

(9) Subsection (h) of section 6394 of such title is amended to read as follows: 10 USC 6394.

"(h) Unless otherwise entitled to higher pay, an officer retired under this section is entitled to retired pay—

"(1) in the case of an officer who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) before the date of the enactment of the Department of Defense Authorization Act, 1981, at the rate of 2½ percent of the basic pay of the grade in which he retired; or

"(2) in the case of a officer who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) on or after the date of the enactment of the Department of Defense Authorization Act, 1981, at the rate of 2½ percent of the monthly retired pay base computed under section 1407(d) of this title;

multiplied by the number of years of service that may be credited to him under section 1405 of this title, but the retired pay may not be more than 75 percent of the basic pay or monthly retired pay base upon which the computation of retired pay is based.".

(10) Clause (2) of section 6396(b) of such title is amended to read as follows: 10 USC 6396.

"(2) with retired pay—

"(A) in the case of an officer who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) before the date of the enactment of the Department of Defense Authorization Act, 1981, at the rate of 2½ percent of the basic pay of the grade in which she retired; or

"(B) in the case of an officer who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) on or after the date of the enactment of the Department of Defense Authorization Act, 1981, at the rate of 2½ percent of the monthly retired pay base computed under section 1407(d) of this title;

multiplied by the number of years of service that may be credited to her under section 1405 of this title, but the retired pay may not be more than 75 percent of the basic pay or monthly retired pay

base upon which the computation of retired pay is based and, in the case of retired pay computed under clause (A), may not be less than 50 percent of the basic pay upon which the computation of retired pay is based.".

10 USC 6398. (11) Clause (2) of section 6398(c)(2) of such title is amended to read as follows:

"(2) is entitled to retired pay—

"(A) in the case of an officer who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) before the date of the enactment of the Department of Defense Authorization Act, 1981, at the rate of 2½ percent of the basic pay of the grade in which she retired; or

Ante, p. 1100.
Ante, p. 1077.

"(B) in the case of an officer who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) on or after the date of the enactment of the Department of Defense Authorization Act, 1981, at the rate of 2½ percent of the monthly retired pay base computed under section 1407(d) of this title;

multiplied by the number of years of service that may be credited to her under section 1405 of this title, but the retired pay may not be more than 75 percent of the basic pay or monthly retired pay base upon which the computation of retired pay is based and, in the case of retired pay computed under clause (A), may not be less than 50 percent of the basic pay upon which the computation of retired pay is based.".

10 USC 1405.

10 USC 6400. (12) Clause (2) of section 6400(b) of such title is amended to read as follows:

"(2) is entitled to retired pay—

"(A) in the case of an officer who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) before the date of the enactment of the Department of Defense Authorization Act, 1981, at the rate of 2½ percent of the basic pay of the grade in which she retired; or

"(B) in the case of an officer who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) on or after the date of the enactment of the Department of Defense Authorization Act, 1981, at the rate of 2½ percent of the monthly retired pay base computed under section 1407(d) of this title;

multiplied by the number of years of service that may be credited to her under section 1405 of this title, but the retired pay may not be more than 75 percent of the basic pay or monthly retired pay base upon which the computation of retired pay is based.".

10 USC 6151. (13) Subsections (b) and (c) of section 6151 of such title are amended to read as follows:

"(b)(1) Each member, other than a former member of the Fleet Reserve or the Fleet Marine Corps Reserve, who is advanced on the retired list under this section is, unless otherwise entitled to higher retired pay, entitled to retired pay—

"(A) in the case of a member who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) before the date of the enactment of the Department of Defense Authorization Act, 1981, at the rate of 2½ percent of the basic pay of the grade to which advanced; or

"(B) in the case of a member who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) on or after the date of the enactment of the Department of Defense

Authorization Act, 1981, at the rate of 2½ percent of the monthly retired pay base computed under section 1407(d) of this title; *Ante*, p. 1100.

multiplied by the number of years of service that may be credited to him under section 1405 of this title, but the retired pay may not be more than 75 percent of the basic pay or monthly retired pay base upon which the computation of retired pay is based. 10 USC 1405.

"(2) In determining the number of years to be used as a multiplier under this subsection, a part of a year that is six months or more is counted as a whole year and a part of a year that is less than six months is disregarded.

"(c)(1) Each former member of the Fleet Reserve or the Fleet Marine Corps Reserve who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) before the date of the enactment of the Department of Defense Authorization Act, 1981, who is advanced on the retired list under this section is entitled to retired pay based upon the grade to which advanced. Such retired pay shall be at the rate of 2½ percent of the basic pay of the grade to which advanced, determined by the same period of service used to determine the basic pay of the grade upon which his retainer pay is based, multiplied by the number of years of service creditable for his retainer pay at the time of retirement, but the retired pay may not be more than 75 percent of the basic pay upon which the computation of retired pay is based. Former Fleet Reserve or Fleet Marine Corps Reserve members. *Ante*, p. 1077.

"(2) Each former member of the Fleet Reserve or the Fleet Marine Corps Reserve who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) on or after the date of the enactment of the Department of Defense Authorization Act, 1981, who is advanced on the retired list under this section is entitled to retired pay at the rate of 2½ percent of the monthly retired pay base computed under section 1407(d) of this title, multiplied by the number of years of service creditable for his retainer pay at the time of retirement, but the retired pay may not be more than 75 percent of the monthly retired pay base upon which the computation of retired pay is based.".

(e) The tables contained in sections 8991 and 8992 of title 10, United States Code, are amended by striking out "Take" in the heading in column 1 and inserting in lieu thereof the following: "For a person who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) on or after the date of the enactment of the Department of Defense Authorization Act, 1981, take the monthly retired pay base as computed under section 1407(e). For all others, take".

(f)(1) Subsection (b) of section 288 of title 14, United States Code, is amended to read as follows:

"(b) Except as provided in section 423(b) of this title, the retired pay of an officer retired under this section shall not be less than 50 percent of the basic pay upon which the computation of his retired pay is based.". *Infra.*

(2) Section 423 of such title is amended— 14 USC 423.

(A) by striking out "The" at the beginning of such section and inserting in lieu thereof "(a) Except as provided in subsection (b), the"; and

(B) by adding at the end thereof the following new subsection:

"(b) Notwithstanding any other provision of this title, the retired pay of each officer or enlisted member of the Coast Guard who first became a member of a uniformed service (as defined in section 1407(a)(2) of title 10) on or after the date of the enactment of the Department of Defense Authorization Act, 1981, is computed at the Coast Guard officers or enlisted men.

rate of 2½ percent of the monthly retired pay base (computed under section 1407(f) of title 10) multiplied by the number of years of service that may be credited to him under section 1405 of title 10, but the retired pay so computed may not be more than 75 percent of such monthly retired pay base.".

Ante, p. 1100.
10 USC 1405.

(g) Section 16 of the Coast and Geodetic Survey Commissioned Officers' Act of 1948 (33 U.S.C. 853o) is amended to read as follows:

Commissioned officers, retired pay computation.

"SEC. 16. (a) Each commissioned officer on the retired list shall receive retired pay—

"(1) in the case of an officer who first became a member of a uniformed service (as defined in section 1407(a)(2) of title 10, United States Code) before the date of the enactment of the Department of Defense Authorization Act, 1981, at the rate of 2½ percent of the basic pay of the rank with which retired; or

Ante, p. 1077.

"(2) in the case of an officer who first became a member of a uniformed service (as defined in section 1407(a)(2) of title 10, United States Code) on or after the date of the enactment of the Department of Defense Authorization Act, 1981, at the rate of 2½ percent of the monthly retired pay base computed under section 1407(g) of title 10, United States Code;

multiplied by the number of years of service that may be credited to him under section 1405 of title 10, United States Code, as if his service were service as a member of the Armed Forces, but the retired pay so computed may not exceed 75 percent of the basic pay of the rank with which retired or 75 percent of the monthly retired pay base, as the case may be.

"(b) A fractional part of a year of six months or more shall be considered a full year in computing the number of years of service for the purposes of subsection (a).".

Commissioned officers, retired pay computation.

(h)(1) Paragraph (3) of section 210(g) of the Public Health Service Act (42 U.S.C. 211(g)(3)) is amended by striking out "law)" and all that follows in such paragraph and inserting in lieu thereof "law)—

"(A) in the case of an officer who first became a member of a uniformed service before the date of the enactment of the Department of Defense Authorization Act, 1981, at the rate of 2½ per centum of basic pay of the permanent grade held by him at the time of retirement for each year, not in excess of thirty, of his active commissioned service in the Service; or

"(B) in the case of an officer who first became a member of a uniformed service on or after the date of the enactment of the Department of Defense Authorization Act, 1981, 2½ per centum of the monthly retired pay base computed under section 1407(h) of title 10, United States Code, for each year, not in excess of thirty, of his active commissioned service in the Service.".

(2) Section 211(a) of such Act (42 U.S.C. 212(a)) is amended—

(A) by striking out "A commissioned officer" in paragraph (4) and inserting in lieu thereof "Except as provided in paragraph (6), a commissioned officer";

(B) by striking out "and his" in paragraph (5) and inserting in lieu thereof "and except as provided in paragraph (6), his"; and

(C) by adding at the end thereof the following new paragraph:

"(6) In computing retired pay under paragraph (4) or (5) in the case of any commissioned officer who first became a member of a uniformed service on or after the date of the enactment of the Department of Defense Authorization Act, 1981, the monthly retired pay base computed under section 1407(h) of title 10, United States Code, shall be used in lieu of using the basic pay of the highest grade held by him as such officer.".

TITLE IX—ARMED FORCES EDUCATIONAL ASSISTANCE PROGRAMS

DEPARTMENT OF DEFENSE EDUCATIONAL ASSISTANCE PROGRAM FOR PERSONS ENLISTING OR REENLISTING FOR SERVICE ON ACTIVE DUTY

SEC. 901. (a) Subtitle A of title 10, United States Code, is amended by inserting after chapter 106 the following new chapter:

"CHAPTER 107—EDUCATIONAL ASSISTANCE FOR PERSONS ENLISTING FOR ACTIVE DUTY

"Sec.
"2141. Educational assistance program: establishment.
"2142. Educational assistance program: eligibility.
"2143. Educational assistance: amount.
"2144. Subsistence allowance.
"2145. Adjustments of amount of educational assistance and of subsistence allowance.
"2146. Right of member upon subsequent reenlistment to lump-sum payment in lieu of educational assistance.
"2147. Right of member after reenlisting to transfer entitlement to spouse or dependent children.
"2148. Duration of entitlement.
"2149. Applications for educational assistance.

10 USC 2141.

"§ 2141. Educational assistance program: establishment

"(a) To encourage enlistments and reenlistments for service on active duty in the armed forces, the Secretary of each military department may establish a program in accordance with this chapter to provide educational assistance to persons enlisting or reenlisting in an armed force under his jurisdiction. The costs of any such program shall be borne by the Department of Defense, and a person participating in any such program may not be required to make any contribution to the program.

Costs.

"(b) The Secretary of Defense shall prescribe regulations for the administration of this chapter. Such regulations shall take account of the differences among the several armed forces.

Regulations.

"(c) In this chapter, 'enlistment' means original enlistment or reenlistment.

"Enlistment."

10 USC 2142.

"§ 2142. Educational assistance program: eligibility

"(a)(1) A program of educational assistance established under this chapter shall provide that any person enlisting or reenlisting in an armed force under the jurisdiction of the Secretary of the military department concerned who meets the eligibility requirements established by the Secretary in accordance with subsection (b) shall, subject to paragraph (3), become entitled to educational assistance under section 2143 of this title at the time of such enlistment.

"(2) The period of educational assistance to which such a person becomes entitled is one standard academic year (or the equivalent) for each year of the enlistment of such person, up to a maximum of four years. However, if the person is discharged or otherwise released from active duty after completing two years of the term of such enlistment but before completing the full term of such enlistment (or before completing four years of such term, in the case of an enlistment of more than four years), then the period of educational assistance to which the person is entitled is one standard academic year (or the equivalent) for each year of active service of such person during such term. For the purposes of the preceding sentence, a

portion of a year of active service shall be rounded to the nearest month and shall be prorated to a standard academic year.

"(3)(A) A member who is discharged or otherwise released from active duty before completing two years of active service of an enlistment which is the basis for entitlement to educational assistance under this chapter or who is discharged or otherwise released from active duty under other than honorable conditions is not entitled to educational assistance under this chapter.

"(B) Entitlement to educational assistance under this chapter may not be used until a member has completed two years of active service of the enlistment which is the basis for entitlement to such educational assistance.

"(b) In establishing requirements for eligibility for an educational assistance program under this chapter, the Secretary concerned shall limit eligibility to persons who—

"(1) enlist or reenlist for service on active duty as a member of the Army, Navy, Air Force, or Marine Corps after September 30, 1980, and before October 1, 1981;

"(2) are graduates from a secondary school; and

"(3) meet such other requirements as the Secretary may consider appropriate for the purposes of this chapter and the needs of the armed forces.

10 USC 2143.

"§ 2143. Educational assistance: amount

"(a) Subject to subsection (b), an educational assistance program established under section 2141 of this title shall provide for payment by the Secretary concerned of educational expenses incurred for instruction at an accredited institution by a person entitled to such assistance under this chapter. Expenses for which payment may be made under this section include tuition, fees, books, laboratory fees, and shop fees for consumable materials used as part of classroom or laboratory instruction. Payments under this section shall be limited to those educational expenses normally incurred by students at the institution involved.

"(b)(1) The Secretary concerned shall establish the amount of educational assistance for a standard academic year (or the equivalent) to which a person becomes entitled under this chapter at the time of an enlistment described in section 2142 of this title. Depending on the needs of the service, different amounts may be established for different categories of persons or enlistments. The amount of educational assistance to which any person is entitled shall be adjusted in accordance with section 2145 of this title.

"(2) The amount of educational assistance which may be provided to any person for a standard academic year (or the equivalent) may not exceed $1,200, adjusted in accordance with section 2145 of this title.

"Accredited institution."

"(c) In this section, 'accredited institution' means a civilian college or university or a trade, technical, or vocational school in the United States (including the District of Columbia, the Commonwealth of Puerto Rico, Guam, and the Virgin Islands) that provides education at the postsecondary level and that is accredited by a nationally recognized accrediting agency or association or by an accrediting agency or association recognized by the Secretary of Education.

10 USC 2144.

"§ 2144. Subsistence allowance

"(a) Subject to subsection (b), a person entitled to educational assistance under this chapter is entitled to receive a monthly subsistence allowance during any period for which educational assistance i

provided such person. The amount of a subsistence allowance under this section is $300 per month, adjusted in accordance with section 2145 of this title, in the case of a person pursuing a course of instruction on a full-time basis and is one-half of such amount (as so adjusted) in the case of a person pursuing a course of instruction on less than a full-time basis.

"(b) The number of months for which a subsistence allowance may be provided to any person under this section is computed on the basis of nine months for each standard academic year of educational assistance to which such person is entitled.

Full-time basis.

"(c) For purposes of subsection (a), a person shall be considered to be pursuing a course of instruction on a full-time basis if the person is enrolled in twelve or more semester hours of instruction (or the equivalent, as determined by the Secretary concerned).

10 USC 2145.

"§ 2145. Adjustments of amount of educational assistance and of subsistence allowance

"(a) Once each year, the Secretary of Defense shall adjust the amount of educational assistance which may be provided to any person in any standard academic year under section 2143 of this title, and the amount of the subsistence allowance authorized under section 2144 of this title for pursuit of a course of instruction on a full-time basis, in a manner consistent with the change over the preceding twelve-month period in the average actual cost of attendance at public institutions of higher education.

"Actual cost of attendance."

"(b) In this section, 'actual cost of attendance' means the actual cost of attendance as determined by the Secretary of Education pursuant to section 411(a)(2)(B)(iv) of the Higher Education Act of 1965 (20 U.S.C. 1070a(a)(2)(B)(iv)).

10 USC 2146.

"§ 2146. Right of member upon subsequent reenlistment to lump-sum payment in lieu of educational assistance

"(a) A member who is entitled to educational assistance under this chapter and who reenlists at the end of the enlistment which established such entitlement may, at the time of such reenlistment, elect to receive a lump-sum payment computed under subsection (b) in lieu of receiving such educational assistance. An election to receive such a lump-sum payment is irrevocable.

"(b) The amount of a lump-sum payment under subsection (a) is 60 percent of the sum of—

"(1) the product of (A) the rate for educational assistance under section 2143(b) of this title applicable to such member which is in effect at the time of such reenlistment, and (B) the number of standard academic years of entitlement of such member to such assistance; and

"(2) the product of (A) the rate for the subsistence allowance authorized under section 2144 of this title for pursuit of a course of instruction on a full-time basis at the time of such reenlistment, and (B) the number of months of entitlement of such member to such allowance.

10 USC 2147.

"§ 2147. Right of member after reenlisting to transfer entitlement to spouse or dependent children

"(a)(1) A person who is entitled to educational assistance under section 2142 of this title and who reenlisted in an armed force at any time after the end of the enlistment which established such entitlement may at any time after such reenlistment elect to transfer all or any part of such entitlement to the spouse or dependent child of such

person. Any transfer under the preceding sentence may be revoked at any time by the person making the transfer.

"(2) If a person described in paragraph (1) dies before making an election authorized by such paragraph but has never made an election not to transfer such entitlement, any unused entitlement of such person shall be automatically transferred to such person's surviving spouse or (if there is no eligible surviving spouse) to such person's dependent children. A surviving spouse to whom entitlement to educational assistance is transferred under this paragraph may elect to transfer such entitlement to the dependent children of the person whose service established such entitlement.

"(3) Any transfer of entitlement under this subsection shall be made in accordance with regulations prescribed by the Secretary of the military department concerned.

"(b) A spouse or surviving spouse or a dependent child to whom entitlement is transferred under subsection (a) is entitled to educational assistance under this chapter in the same manner and at the same rate as the person from whom the entitlement was transferred.

"(c) The total amount of educational assistance available to a person entitled to educational assistance under section 2142 of this title and to the person's spouse, surviving spouse, and dependent children is the amount of educational assistance to which the person is entitled. If more than one person is being provided educational assistance for the same period by virtue of the entitlement of the same person, the subsistence allowance authorized by section 2144 of this title shall be divided in such manner as the person may specify or (if the person fails to specify) as the Secretary concerned may prescribe.

Definitions.

"(d) In this section:

"(1) 'Dependent child' has the meaning given the term 'dependent' in section 1072(2)(E) of this title.

10 USC 1072.

"(2) 'Surviving spouse' means a widow or widower who is not remarried.

10 USC 2148.

"§ 2148. Duration of entitlement

"The entitlement of any person to educational assistance under this chapter expires at the end of the ten-year period beginning on the date of the retirement or discharge or other separation from active duty of the person upon whose service such entitlement is based. In the case of a member entitled to educational assistance under this chapter who dies while on active duty and whose entitlement is transferred to a spouse or dependent child, such entitlement expires at the end of the ten-year period beginning on the date of such member's death.

10 USC 2149.

"§ 2149. Applications for educational assistance

"To receive educational assistance benefits under this chapter, a person entitled to such assistance under section 2142 or 2147 of this title shall submit an application for such assistance to the Secretary concerned in such form and manner as the Secretary concerned may prescribe.".

(b) The tables of chapters at the beginning of subtitle A of title 10, United States Code, and at the beginning of part III of such subtitle are amended by inserting after the item relating to chapter 106 the following new item:

"107. Educational assistance for persons enlisting for active duty..... 2141"

AUTHORIZATION TO REPAY LOANS FOR SERVICE IN THE ARMED FORCES

10 USC 2141 note.

SEC. 902. (a)(1) Subject to the provisions of this section, the Secretary of Defense may repay any loan made, insured, or guaranteed under part B of the Higher Education Act of 1965, or any loan made under part E of such Act, after October 1, 1975. Repayment of any such loan shall be made on the basis of each complete year of service performed by the borrower.

Loan repayment criteria.

(2) The Secretary of Defense may repay loans described in paragraph (1) in the case of any person for—

(A) service performed (i) as an enlisted member of the Selected Reserve of the Ready Reserve of an Armed Force after September 30, 1980, and (ii) in a Reserve component and military specialty specified by the Secretary of Defense; or

(B) service performed on active duty as an enlisted member of the Armed Forces after September 30, 1980, in a military specialty specified by the Secretary of Defense.

In the case of service described in clause (A) of the first sentence of this paragraph, the Secretary of Defense may repay a loan described in paragraph (1) only if the person to whom the loan was made performed such service after the loan was made.

Percentage.

(b) The portion or amount of a loan that may be repaid under subsection (a) is—

(1) 15 percent or $500, whichever is greater, for each year of service, in the case of service described in subsection (a)(2)(A); or

(2) 33⅓ percent or $1,500, whichever is greater, for each year of service, in the case of service described in subsection (a)(2)(B).

(c) If a portion of a loan is repaid under this section for any year, interest on the remainder of such loan shall accrue and be paid in the same manner as is otherwise required.

(d) Nothing in this section shall be construed to authorize refunding any repayment of a loan.

(e) Any individual who transfers from service described in clause (A) or (B) of subsection (a)(1) of this section to service described in the other clause of such subsection during a year shall be eligible to have repaid a portion of such loan determined by giving appropriate fractional credit for each portion of the year so served, in accordance with regulations of the Secretary concerned.

Fund allocation schedule.

(f) The Secretary of Defense shall, by regulation, prescribe a schedule for the allocation of funds made available to carry out the provisions of this section during any year for which funds are not sufficient to pay the sum of the amounts eligible for repayment under subsection (a).

(g) The authority provided under this section shall apply only in the case of persons who enlist or reenlist in the Selected Reserve of the Ready Reserve of an Armed Force or enlist or reenlist for service on active duty after September 30, 1980, and before October 1, 1981.

EDUCATIONAL ASSISTANCE PILOT PROGRAM

10 USC 2141 note.

SEC. 903. (a)(1) As a means of encouraging enlistments and reenlistments in the Armed Forces, the Secretary of Defense, on behalf of any person who enlists or reenlists in the Armed Forces after September 30, 1980, and before October 1, 1981, and who elects or has elected to participate in the Post-Vietnam Era Veterans' Educational Assistance Program provided for under chapter 32 of title 38, United States Code, may pay the monthly contribution otherwise deducted from the military pay of such person. No deduction may be made under section

38 USC 1601 *et seq.*

1622 of title 38, United States Code, from the military pay of any person for any month to the extent that the contribution otherwise required to be made by such person under such section for such month is paid by the Secretary of Defense.

(2) No payment may be made under this section on behalf of any person for any month before the month in which such person enlisted or reenlisted in the Armed Forces or for any month before October 1980.

(b) The amount paid by the Secretary of Defense under this section on behalf of any person shall be deposited to the credit of such person in the Post-Vietnam Era Veterans Education Account established under section 1622(a) of title 38, United States Code.

38 USC 1601 *et seq.*

(c)(1) Except as provided in paragraph (2), the provisions of chapter 32 of title 38, United States Code, shall be applicable to payments made by the Secretary of Defense under this section.

Monthly payments to spouse or child.

(2) Notwithstanding the provisions of section 1631(a)(4) of title 38, United States Code, the Secretary of Defense, in the case of any person who enlists or reenlists in the Armed Forces or any officer who is ordered to active duty with the Armed Forces after September 30, 1980, and before October 1, 1981, or whose active duty obligation with the Armed Forces is extended after September 30, 1980, and before October 1, 1981, and who is a participant in the educational assistance program described in subsection (a), may make monthly payments out of the Post-Vietnam Era Veterans Education Account to the spouse or child of such person to assist such spouse or child in the pursuit of a program of education. Payments under this subsection may be made to the spouse or child of a person participating in such educational assistance program only upon the request of such person and only for such period of time as may be specified by such person. The total amount paid under this subsection in the case of any spouse or child may not exceed the amount credited to such person in the Post-Vietnam Era Veterans Education Account.

(d)(1) The authority conferred on the Secretary of Defense under this section shall be used by the Secretary only for the purpose of encouraging persons who possess critical military specialties (as determined by the Secretary of Defense) to enter or to remain in the Armed Forces.

(2) Except as otherwise provided in this section, the Secretary of Defense may offer the benefits of this section to persons eligible therefor for such period as the Secretary determines necessary or appropriate to achieve the purpose of this section.

Definitions.

(f) As used in this section:

(1) The term "program of education" shall have the same meaning as provided in chapter 32 of title 38, United States Code.

(2) The term "child" shall have the same meaning as provided in section 101(4) of title 38, United States Code.

(3) The term "Armed Forces" means the Army, Navy, Air Force, and Marine Corps.

AUTHORIZATION OF APPROPRIATIONS

10 USC 2141 note.

SEC. 904. (a) There is hereby authorized to be appropriated to carry out chapter 107 of title 10, United States Code (as added by section 901), and sections 902 and 903 a total of $75,000,000.

(b) The Secretary of Defense shall equitably allocate the amount appropriated under this section among the educational assistance program provided for under chapter 107 of title 10, United States Code (as added by section 901), the repayment as authorized by

section 902 of loans made, insured, or guaranteed under part B of the Higher Education Act of 1965 and of loans made under part E of such Act, and the educational assistance program provided for under section 903.

REPORT ON EDUCATIONAL BENEFITS INCENTIVE PROGRAMS

SEC. 905. (a) The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives, within 30 days after the end of each quarter of fiscal year 1981, a report on the implementation and operation of the educational assistance program provided for under chapter 107 of title 10, United States Code (as added by section 901), and of the programs provided for under sections 902 and 903. Submittal to congressional committees. 10 USC 2141 note.

(b) The Secretary of Defense shall also submit to such committees, not later than December 31, 1981, a report on the extent to which the educational assistance program provided for under chapter 107 of title 10, United States Code (as added by section 901), the Post-Vietnam Era Veterans' Educational Assistance Program provided for under chapter 32 of title 38, United States Code, and the program established under section 902 have encouraged persons to enter or remain in the Armed Forces. The Secretary shall include in such report— 38 USC 1601 *et seq.* Contents.

(1) an evaluation of contributory and noncontributory educational assistance programs as incentives for individuals to enter or remain in the Armed Forces;

(2) an analysis of the costs and benefits of various educational assistance incentive programs designed to encourage persons to enter and remain in the Armed Forces; and

(3) recommendations for such new programs or revision of existing programs as the Secretary determines necessary or appropriate to successfully encourage persons to enter and remain in the Armed Forces.

IMPROVEMENT AND EXTENSION OF EDUCATIONAL ASSISTANCE PROGRAM FOR ENLISTED MEMBERS OF THE SELECTED RESERVE OF THE READY RESERVE

SEC. 906. (a)(1) Section 2131(c) of title 10, United States Code, relating to educational assistance for enlisted members of the Selected Reserve of the Ready Reserve, is amended by striking out "$500" and "$2,000" and inserting in lieu thereof "$1,000" and "$4,000", respectively.

(2) The amendments made by paragraph (1) shall take effect on October 1, 1980. Effective date. 10 USC 2131 note.

(b) Section 2135 of such title 10, United States Code, is amended by striking out "September 30, 1980" and inserting in lieu thereof "September 30, 1985".

TITLE X—GENERAL PROVISIONS

REQUIREMENT OF ANNUAL AUTHORIZATION OF APPROPRIATIONS FOR OPERATION AND MAINTENANCE

SEC. 1001. (a)(1) Section 138(a) of title 10, United States Code, relating to annual authorization of appropriations, is amended—

(A) by striking out "or" at the end of clause (5);

(B) by inserting "or" at the end of clause (6); and

(C) by inserting after clause (6) the following new clause:

"(7) the operation and maintenance of any armed force or of the activities and agencies of the Department of Defense (other than the military departments);".

10 USC 138 note.

(2) The amendments made by paragraph (1) shall apply with respect to funds appropriated for fiscal years beginning after September 30, 1981.

10 USC 138.

(b) Section 138 of such title is further amended—

(1) by striking out "subsection (e) of this section" in subsection (a)(6) and inserting in lieu thereof "subsection (f)";

(2) by redesignating subsection (e) as subsection (f); and

(3) by inserting after subsection (d) the following new subsection (e):

Report to Congress.

"(e)(1) The Secretary of Defense shall submit to Congress a written report, not later than February 15 of each fiscal year, with respect to the operations and maintenance of the Army, Navy, Air Force, and Marine Corps for the next fiscal year. The Secretary shall include in each such report recommendations for—

Contents.

"(A) the number of aircraft flying hours for the Army, Navy, Air Force, and Marine Corps for the next fiscal year, the number of ship steaming hours for the Navy for the next fiscal year, and the number of field training days for the combat arms battalions of the Army and Marine Corps for the next fiscal year;

"(B) the number of ships over 3,000 tons (full load displacement) in each Navy ship classification on which major repair work should be performed during the next fiscal year; and

"(C) the number of airframe reworks, aircraft engine reworks, and vehicle overhauls which should be performed by the Army, Navy, Air Force, and Marine Corps during the next fiscal year.

Funding level recommendation.

"(2) The Secretary shall also include in each such report the justification for and an explanation of the level of funding recommended in the Budget of the President for the next fiscal year for aircraft flying hours, ship steaming hours, field training days for the combat arms battalions, major repair work to be performed on ships of the Navy, airframe reworks, aircraft engine reworks, and vehicle overhauls.

Combat readiness projection.

"(3) The Secretary shall also include in each such report a projection (made in accordance with paragraph (4)) of the combat readiness proposed to be maintained during the next fiscal year of—

"(A) each Army and Marine Corps division, brigade, and regiment;

"(B) each Navy, Air Force, and Marine Corps air wing and squadron;

"(C) each Navy aircraft carrier, other major surface combatant, general purpose submarine, ballistic missile submarine, and amphibious ship;

"(D) each Air Force strategic and tactical airlift squadron; and

"(E) such other units as the Secretary considers appropriate.

"(4) Each projection made pursuant to paragraph (3) shall be made—

"(A) using the overall readiness ratings and the four resource-related readiness ratings of the Unit Status and Identity Report of the Department of Defense; and

"(B) using the levels of funding proposed in the Budget of the President for the next fiscal year.".

(c) Subsection (f) of such section, as redesignated by subsection (b)(2), is amended—

(1) by striking out "For purposes of subsection (a)(6) of this section" and inserting in lieu thereof "(1) In subsection (a)(6)"; and

(2) by adding at the end of such subsection the following new paragraph:

Definitions.

"(2) In subsection (f):

"(A) 'Combat arms battalions' means armor, infantry, mechanized infantry, air assault infantry, airborne infantry, ranger, artillery, and combat engineer battalions and armored cavalry and air cavalry squadrons.

"(B) 'Major repair work' means, in the case of any ship to which such subsection is applicable, any overhaul, modification, alteration, or conversion work which will result in a total cost to the United States of more than $10,000,000.".

(d)(1) The heading of such section is amended to read as follows:

"§ 138. Annual authorization of appropriations and personnel strengths for the armed forces; annual manpower requirements and operations and maintenance reports".

(2) The item relating to such section in the table of sections at the beginning of chapter 4 of such title is amended to read as follows:

"138. Annual authorization of appropriations and personnel strengths for the armed forces; annual manpower requirements and operations and maintenance reports.".

DENIAL OF CERTAIN BENEFITS TO PERSONS WHO FAIL TO COMPLETE AT LEAST TWO YEARS OF AN ORIGINAL ENLISTMENT

SEC. 1002. (a) Chapter 49 of title 10, United States Code, relating to prohibitions and penalties, is amended by adding at the end thereof the following new section:

10 USC 977.

"§ 977. Denial of certain benefits to persons who fail to complete at least two years of an original enlistment

"(a) Notwithstanding any other provision of law and except as provided in subsection (b), any person who originally enlists in a regular component of the armed forces on or after the date of the enactment of the Department of Defense Authorization Act, 1981, and who fails to complete at least twenty-four months of such person's period of original enlistment shall not be eligible for any right, privilege, or benefit for which persons become eligible under any Federal program by reason of serving on active duty in the armed forces if the claim for the eligibility of such person for such right, privilege, or benefit is based upon any period of service performed by such person under such enlistment.

Ante, p. 1077.

"(b) Subsection (a) shall not apply to any person (1) who was discharged under section 1173 or chapter 61 of this title, or (2) if it is later established that such person is suffering from a disability which resulted from an injury or disease incurred in or aggravated during the period of the enlistment completed by such person and is not the result of the person's intentional misconduct and was not incurred during a period of unauthorized absence.".

10 USC 1173, 1201 *et seq.*

(b) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"977. Denial of certain benefits to persons who fail to complete at least two years of an original enlistment.".

79-194 O—81—pt. 1——74 : QL3

DELAY OF EFFECTIVE DATE FOR CEILING ON NUMBER OF GENERAL AND FLAG OFFICERS ON ACTIVE DUTY AND OF REDUCTION IN NUMBER OF SENIOR-GRADE CIVILIAN EMPLOYEES OF THE DEPARTMENT OF DEFENSE

SEC. 1003. Section 811(a) of the Department of Defense Appropriation Authorization Act, 1978 (10 U.S.C. 131 note), is amended—

(1) by striking out "October 1, 1980" in paragraph (1) and inserting in lieu thereof "October 1, 1981"; and

(2) by striking out paragraph (2) and inserting in lieu thereof the following:

"(2) After September 30, 1981, the total number of civilian employees of the Department of Defense in grades GS–13 through GS–18 (including positions authorized under section 1581 of title 10, United States Code) may not exceed the number equal to 96 percent of the number of such employees employed by the Department of Defense on July 30, 1977. After September 30, 1982, the total number of such employees may not exceed the number equal to 94 percent of the number of such employees employed by the Department of Defense on July 30, 1977.".

5 USC 5332 note.

BASIC PAY OF WOMEN OFFICERS OF THE NAVY SERVING IN THE GRADE OF REAR ADMIRAL

SEC. 1004. (a) Subsection (k) of section 202 of title 37, United States Code, relating to assignment of certain officers to the pay grade of rear admiral of the upper half, is amended to read as follows:

"(k) When initially appointed as a rear admiral under section 5767(c) of title 10, a woman officer of the Navy is entitled to the pay of a rear admiral of the lower half. A woman officer serving as a rear admiral under such an appointment or a subsequent appointment under that section is entitled to the basic pay of a rear admiral of the upper half when any officer who is junior to her is entitled to the basic pay of a rear admiral of the upper half as determined under subsection (a) of this section.".

(b) The amendment made by subsection (a) shall apply with respect to basic pay payable for periods beginning on or after the date of the enactment of this Act.

Effective date.
37 USC 202 note.

EXEMPTION OF CERTAIN CONTRACTS FROM CERTAIN PROFIT LIMITATIONS

SEC. 1005. (a) The provisions of sections 2382 and 7300 of title 10, United States Code, relating to profit limitation on contracts for the construction or manufacture of aircraft and naval vessels and parts thereof, shall not apply with respect to any contract for the construction or manufacture of all or any part of any aircraft or naval vessel, or to any subcontract of such a contract, for which final payment is made before October 1, 1981.

10 USC 2382 note.

(b) Neither the Secretary of Defense nor the Secretary of the Treasury may require that any report be submitted under section 2382 or 7300 of title 10, United States Code, before October 1, 1981, and neither such Secretary may prescribe regulations to implement such sections (or either of such sections) to take effect before October 1, 1981.

REPORT ON ALLIED COMMITMENTS TO DEFENSE SPENDING

SEC. 1006. (a) In recognition of the growth, relative to the United States, in the economic strength of Japan, Canada, and Western

22 USC 1928 note.

European countries which has occurred since the signing of the North Atlantic Treaty on April 4, 1949, and the Mutual Cooperation and Security Treaty between Japan and the United States on January 19, 1960, it is the sense of Congress that— 63 Stat. 2241. 11 UST 1632.

(1) the burdens of mutual defense now assumed by the countries allied with the United States under those agreements are not commensurate with their economic resources; and

(2) the continued unwillingness of those countries to increase their contributions to the common defense to more appropriate levels would endanger the vitality, effectiveness, and cohesiveness of the alliances between those countries and the United States.

(b) It is further the sense of Congress that the President should seek from each signatory country (other than the United States) of the two treaties referred to in subsection (a) acceptance of international security responsibilities and agreement to make contributions to the common defense which are commensurate with the economic resources of such country, including, when appropriate, an increase in host nation support.

(c) The Secretary of Defense shall submit to the Congress not later than March 1, 1981, a report providing— Report to Congress.

(1) a comparison of the fair and equitable shares of the mutual defense burdens of these alliances that should be borne by the United States, by other member nations of the North Atlantic Treaty Organization (NATO), and by Japan, based upon economic strength and other relevant factors, and the actual defense efforts of each nation together with an explanation of disparities that currently exist;

(2) a description of efforts by the United States and of other efforts to eliminate existing disparities;

(3) estimates of the real growth in defense spending in fiscal year 1981 projected for each NATO member nation compared to the annual real growth goal in the range of 3 percent set in May 1978;

(4) a description of the defense-related initiatives undertaken by each NATO member nation within the real growth in defense spending of such nation in fiscal year 1981; and

(5) an explanation of those instances in which the commitments to real growth in defense spending and to the Long-Term Defense Program have not been realized and a description of efforts being made by the United States to ensure fulfillment of these important NATO commitments.

CIVIL AIR PATROL

SEC. 1007. (a) Subsection (b) of section 9441 of title 10, United States Code, relating to support of the Civil Air Patrol by the Air Force, is amended—

(1) by striking out the semicolon at the end of clause (3) and inserting in lieu thereof ", including unit capability testing missions and training missions;";

(2) by striking out "and" at the end of clause (6);

(3) by striking out the period at the end of clause (7) and inserting in lieu thereof "; and"; and

(4) by adding at the end thereof the following new clause:

"(8) authorize the payment of aircraft maintenance expenses relating to operational missions, unit capability testing missions, and training missions.".

(b)(1) Subsection (c) of such section is amended by striking out the period and inserting in lieu thereof ", and for purposes of determining the civil liability of the Civil Air Patrol (or any member thereof) with respect to any act or omission committed by the Civil Air Patrol (or any member thereof) in fulfilling such mission, the Civil Air Patrol shall be deemed to be an instrumentality of the United States.".

Effective date.
10 USC 9441 note.

(2) The amendment made by paragraph (1) shall be effective with respect to services of the Civil Air Patrol provided to the Department of the Air Force before the date of the enactment of this Act as well as to such services provided on or after such date, but such amendment shall not be construed (A) to revive any cause of action barred by an applicable statute of limitation, or (B) to serve as grounds for the reopening or appeal of any case which became final before the date of the enactment of this Act.

ADHERENCE TO THE WAR POWERS RESOLUTION

50 USC 1541 note.

SEC. 1008. Whereas, the National Command Authority must have the capacity to carry out any military mission which is essential to the national security of the United States having in its hands in the Rapid Deployment Force an increased capability to extend the reach of our military power in an expedited manner; and whereas, without the significant safeguard of the War Powers Resolution (Public Law 93-148), United States foreign and defense policies could be subject to misinterpretation; it is therefore the sense of the Congress that the provisions of the War Powers Resolution be strictly adhered to and that the congressional consultation process specified by such Resolution be utilized strictly according to the terms of the War Powers Resolution.

50 USC 1541 note.

Approved September 8, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 96-916 (Comm. on Armed Services) and No. 96-1222 (Comm. of Conference).

SENATE REPORTS: No. 96-826 (Comm. on Armed Services) and No. 96-895 (Comm. of Conference).

CONGRESSIONAL RECORD, Vol. 126 (1980):
May 13-15, 21, considered and passed House.
June 28, 30, July 1, 2, considered and passed Senate, amended.
Aug. 26, House and Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 16, No. 37:
Sept. 8, Presidential statement.

Public Law 96-343
96th Congress

An Act

Sept. 8, 1980
[H.R. 5168]

To extend certain expiring provisions of law relating to personnel management of the Armed Forces, to provide a variable housing allowance for members of the uniformed services to reflect housing costs in different areas of the United States, to improve certain special and incentive pays for members of the uniformed services, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Military Personnel and Compensation Amendments of 1980.
37 USC 101 note.

SHORT TITLE

SECTION 1. This Act may be cited as the "Military Personnel and Compensation Amendments of 1980".

FLIGHT INCENTIVE PAY

SEC. 2. (a) Section 301 of title 37, United States Code, relating to hazardous duty pay, is amended—

(1) by striking out "(1), (2), or (3)" in subsection (b) and inserting in lieu thereof "(2) or (3)";

(2) by striking out "(b)" before "For the performance of" and inserting in lieu thereof "(2)"; and

(3) by inserting after subsection (a) the following:

"(b)(1) For the performance of the hazardous duty described in clause (1) of subsection (a) of this section, a member is entitled to monthly incentive pay as follows:

"ENLISTED MEMBERS

"Pay grade	Years of service computed under section 205						
	2 or less	Over 2	Over 3	Over 4	Over 6	Over 8	Over 10
E-9	$131	$131	$131	$131	$131	$131	$131
E-8	131	131	131	131	131	131	131
E-7	100	106	106	106	113	119	131
E-6	88	94	94	100	106	113	119
E-5	75	88	88	100	100	106	113
E-4	69	81	81	88	94	100	100
E-3	69	75	75	75	75	75	75
E-2	63	75	75	75	75	75	75
E-1	63	69	69	69	69	69	69
E-1 under 4 months	63	.....	.....	.....	.....	.....	.....
Aviation cadets	63	.....	.....	.....	.....	.....	.....

	Over 12	Over 14	Over 16	Over 18	Over 22	Over 26	Over 30
E-9	$131	$131	$131	$131	$131	$131	$131
E-8	131	131	131	131	131	131	131
E-7	131	131	131	131	131	131	131
E-6	119	125	125	125	125	125	125
E-5	119	119	119	119	119	119	119
E-4	100	100	100	100	100	100	100
E-3	75	75	75	75	75	75	75
E-2	75	75	75	75	75	75	75
E-1	69	69	69	69	69	69	69"

37 USC 301a.

(b)(1) The tables in clause (1) of section 301a(b) of such title, relating to aviation career incentive pay for officers, are amended to read as follows:

"Phase I

"Years of aviation service (including flight training) as an officer:	Monthly rate
2 or less	$125
Over 2	156
Over 3	188
Over 4	206
Over 6	306

"Phase II

"Years of service as an officer as computed under section 205:	
Over 18	$281
Over 20	256
Over 22	231
Over 24 but not over 25	206".

(2) The last sentence in such clause is amended by striking out "$160" and "$165" and inserting in lieu thereof "$200" and "$206", respectively.

(3) The table in clause (2) of such section is amended to read as follows:

"Years of aviation service as an officer:	Monthly rate
2 or less	$125
Over 2	138
Over 6	250".

Effective date. 37 USC 301 note.

(c) The amendments made by this section shall be effective with respect to incentive pay payable for months after August 1980.

CAREER SEA PAY FOR ENLISTED MEMBERS

SEC. 3. (a) Section 305a(b) of title 37, United States Code, relating to career sea pay, is amended to read as follows:

"(b) The monthly rates for special pay under subsection (a) of this section are as follows:

"Years of sea duty:	Monthly rate
Over 3	$29
Over 5	40
Over 7	52
Over 9	63
Over 10	75
Over 11	86
Over 12	115".

Repeal. 37 USC 305a.

(b) Section 804(a)(2) of the Department of Defense Appropriation Authorization Act, 1979 (Public Law 95-485; 37 U.S.C. 305a note) is repealed.

Effective date. 37 USC 305a note.

(c) The amendments made by this section shall be effective with respect to special pay payable under section 305a of title 37, United States Code, for months after August 1980.

VARIABLE HOUSING ALLOWANCE

SEC. 4. (a)(1) Section 403(a) of title 37, United States Code, relating to basic allowance for quarters, is amended—

(A) by inserting "(1)" after "(a)"; and

(B) by adding at the end thereof the following new paragraph:

"(2)(A) A member of a uniformed service entitled to basic allowance for quarters is entitled to a variable housing allowance under this paragraph whenever assigned to duty in an area of the United States (other than Alaska or Hawaii) which is a high housing cost area with respect to such member. A member with dependents who is assigned to an unaccompanied tour of duty outside the United States is entitled to a variable housing allowance while serving such tour of duty for any period during which the member's dependents reside in an area of the United States which would qualify the member to receive a variable housing allowance under this paragraph if assigned to duty in that area.

"(B) The monthly amount of a variable housing allowance under this paragraph for any member is the difference between (i) the average monthly cost of housing in that area for members of the uniformed services serving in the same pay grade as that member (as determined under regulations prescribed under subsection (j) of this section), and (ii) 115 percent of the amount of the basic allowance for quarters to which that member is entitled.

"(C) For the purposes of this paragraph, an area shall be considered to be a high housing cost area with respect to a member of a uniformed service whenever the average monthly cost of housing in that area for members serving in the same pay grade as that member (as determined under regulations prescribed under subsection (j) of this section) exceeds 115 percent of the amount of the basic allowance for quarters of that member.".

(2) The heading of section 403 of such title is amended to read as follows: 37 USC 403.

"§ 403. Basic allowance for quarters; variable housing allowance".

(3) The item relating to such section in the table of sections at the beginning of chapter 7 of such title is amended to read as follows:

"403. Basic allowance for quarters; variable housing allowance.".

(b) Paragraph (2) of section 403(a) of title 37, United States Code, as added by subsection (a), shall take effect on September 30, 1981. Effective date. 37 USC 403 note.

(c)(1) During fiscal year 1981, a member of a uniformed service entitled to basic allowance for quarters under section 403 of title 37, United States Code, may be paid a variable housing allowance under this subsection whenever assigned to duty in an area of the United States (other than Alaska or Hawaii) which is a high housing cost area with respect to such member. A member with dependents who is assigned to an unaccompanied tour of duty outside the United States may be paid a variable housing allowance under this subsection while serving such tour of duty for any period during which the member's dependents reside in an area of the United States which would qualify the member to receive a variable housing allowance under this subsection if assigned to duty in that area. 37 USC 403 note.

(2) The monthly amount of a variable housing allowance under this subsection for any member may not exceed the difference between (A)

the average monthly cost of housing in that area for members of the uniformed services serving in the same pay grade as that member (as determined under regulations prescribed under paragraph (4)), and (B) 115 percent of the amount of the basic allowance for quarters to which that member is entitled.

(3) For the purposes of this subsection, an area shall be considered to be a high housing cost area with respect to a member of a uniformed service whenever the average monthly cost of housing in that area for members serving in the same pay grade as that member (as determined under regulations prescribed under paragraph (4)) exceeds 115 percent of the amount of the basic allowance for quarters of that member.

Regulations.

(4) Regulations shall be prescribed for the administration of this subsection in the same manner that regulations are prescribed under subsection (j) of section 403 of title 37, United States Code, for the administration of such section.

TRAVEL AND TRANSPORTATION ALLOWANCES

SEC. 5. (a) Section 404(d) of title 37, United States Code, relating to travel and transportation allowances, is amended—

(1) by striking out "that is not more than 7 cents a mile" in clause (1) and inserting in lieu thereof "per mile prescribed by the Secretaries concerned and"; and

(2) by striking out "of not more than 10 cents a mile" in clause (3) and inserting in lieu thereof "at a rate per mile prescribed by the Secretaries concerned and".

37 USC 411.

(b) Section 411(b) of such title, relating to travel and transportation allowances, is amended—

(1) by striking out "first-class transportation, including sleeping accommodations," in clause (1) and inserting in lieu thereof "common carrier transportation";

(2) by inserting "and designating areas as high cost areas" after "rates" in clause (2); and

(3) by striking out "first-class transportation" and all that follows in clause (3) and inserting in lieu thereof "transportation and current economic data on the cost of subsistence, including lodging and other necessary incidental expenses relating thereto, when prescribing mileage allowances.".

Effective date.
37 USC 404 note.

(c) The amendments made by this section shall be effective with respect to travel and transportation performed after August 31, 1980.

STABILIZATION OF PAY AND ALLOWANCES OF COMMISSIONED OFFICERS WHO PREVIOUSLY SERVED AS ENLISTED MEMBERS OR WARRANT OFFICERS

SEC. 6. (a)(1) Section 907 of title 37, United States Code, relating to the pay and allowances of enlisted members appointed as officers, is amended to read as follows:

"§ 907. Enlisted members and warrant officers appointed as officers: pay and allowances stabilized

"(a) An enlisted member who accepts an appointment as an officer shall, for service as an officer, be paid the greater of—

"(1) the pay and allowances to which he is entitled as an officer; or

"(2) the pay and allowances to which he would be entitled if he were in the last enlisted grade he held before his appointment as an officer.

"(b) A warrant officer who accepts an appointment as a commissioned officer in a pay grade above W-4 shall, for service as such a commissioned officer, be paid the greater of—

"(1) the pay and allowances to which he is entitled as such a commissioned officer;

"(2) the pay and allowances to which he would be entitled if he were in the last warrant officer grade he held before his appointment as such a commissioned officer; or

"(3) in the case of an officer who was formerly an enlisted member, the pay and allowances to which he would be entitled if he were in the last enlisted grade he held before his appointment as an officer.

"(c) For the purposes of this section—

"(1) the pay and allowances of a grade formerly held by an officer include—

"(A) subject to subsection (d) of this section, special and incentive pays under chapter 5 of this title; and

"(B) subject to subsection (e) of this section, allowances under chapter 7 of this title; and

"(2) the rates of pay and allowances of a grade which an officer formerly held are those to which the officer would have been entitled had he remained in that grade and continued to receive the increases in pay and allowances authorized for that grade, as otherwise provided in this title.

"(d) In determining the amount of the pay and allowances of a grade formerly held by an officer, incentive pay for hazardous duty under section 301 of this title, special pay for diving duty under section 304 of this title, for duty at certain places under section 305 of this title, and for sea duty under section 305a of this title, and proficiency pay under section 307 of this title may be considered only so long as the officer continues to perform the duty creating the entitlement to or eligibility for that pay and would otherwise be eligible to receive that pay in his former grade. 37 USC 301. 37 USC 304. 37 USC 305a, *ante*, p. 1124. 37 USC 307.

"(e) The clothing allowance under section 418 of this title may not be considered in determining the amount of the pay and allowances of a grade formerly held by an officer if the officer is entitled to a uniform allowance under section 415 of this title.". 37 USC 418. 37 USC 415.

(2) The table of sections at the beginning of chapter 17 of such title is amended by striking out the item relating to section 907 and inserting in lieu thereof the following: 37 USC 907.

"907. Enlisted members and warrant officers appointed as officers: pay and allowances stabilized.".

(b) Section 203 of such title, relating to rates of pay for members of the uniformed services, is amended by adding at the end thereof the following new subsection: 37 USC 203.

"(d) The basic pay of commissioned officers who are in pay grades O-1, O-2, and O-3 and who are credited with over four years' active service as warrant officers shall be computed in the same manner as the basic pay of commissioned officers in the same pay grades who have been credited with over four years' active service as enlisted members.".

(c) The amendments made by this section shall be effective with respect to periods for which pay and allowances are payable which begin after August 31, 1980. Effective date. 37 USC 907 note.

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INCREASE IN BASIC ALLOWANCE FOR SUBSISTENCE

Effective date.
37 USC 402 note.

SEC. 7. Effective September 1, 1980, the rates of basic allowance for subsistence authorized by section 402 of title 37, United States Code, as in effect on the day before the date of the enactment of this Act (as prescribed by the President under section 1009 of such title), are increased by 10 percent.

37 USC 1009.

EXPANSION OF AUTHORITY TO MAKE ADVANCE PAYMENTS

SEC. 8. Subsection (a) of section 1006 of title 37, United States Code, relating to advance payments, is amended to read as follows:

"(a) Under regulations prescribed by the Secretary concerned, a member of a uniformed service may be paid in advance—

"(1) not more than three months' pay of such member upon such member's change of permanent station; or

"(2) the amount of an allotment made from such member's pay to a dependent if such member is assigned or scheduled for assignment to sea duty or other duty with a unit or command deployed or to be deployed outside the United States and the allotment is made by such member not more than sixty days before the scheduled date of the assignment of such member to such duty."

AMENDMENTS TO MAKE CERTAIN RETIREMENT PROVISIONS RELATING TO REGULAR ENLISTED MEMBERS OF THE ARMY AND AIR FORCE APPLICABLE TO RESERVE ENLISTED MEMBERS

SEC. 9. (a)(1) Section 3914 of title 10, United States Code, relating to the retirement of regular enlisted members, is amended to read as follows:

"§ 3914. Twenty to thirty years: enlisted members

"Under regulations to be prescribed by the Secretary of the Army, an enlisted member of the Army who has at least 20, but less than 30, years of service computed under section 3925 of this title may, upon his request, be retired. A regular enlisted member then becomes a member of the Army Reserve. A member retired under this section shall perform such active duty as may be prescribed by law until his service computed under section 3925 of this title, plus his inactive service as a member of the Army Reserve, equals 30 years."

10 USC 3925.

(2) Section 3925 of such title, relating to the computation of years of service of enlisted members of the Army in determining eligibility for voluntary retirement, is amended—

(A) by striking out "a regular" in subsection (a) and inserting in lieu thereof "an"; and

(B) by striking out "**regular**" in the catchline.

(3) The table of sections at the beginning of chapter 367 of such title is amended by striking out "regular" in the items relating to sections 3914 and 3925.

10 USC 3914, 3925.

(b)(1) Section 8914 of such title is amended to read as follows:

10 USC 8914.

"§ 8914. Twenty to thirty years: enlisted members

"Under regulations to be prescribed by the Secretary of the Air Force, an enlisted member of the Air Force who has at least 20, but less than 30, years of service computed under section 8925 of this title may, upon his request, be retired. A regular enlisted member then becomes a member of the Air Force Reserve. A member retired under

this section shall perform such active duty as may be prescribed by law until his service computed under section 8925 of this title, plus his inactive service as a member of the Air Force Reserve, equals 30 years.". 10 USC 8925.

(2) Section 8925 of such title, relating to the computation of years of service of enlisted members of the Air Force in determining eligibility for voluntary retirement, is amended—

(A) by striking out "a regular" in subsection (a) and inserting in lieu thereof "an"; and

(B) by striking out "**regular**" in the catchline.

(3) The table of sections at the beginning of chapter 867 of such title is amended by striking out "regular" in the items relating to sections 8914 and 8925. 10 USC 8914, 8925

(c) The amendments made by this section shall apply with respect to retired pay payable for months beginning after the date of the enactment of this Act. Effective date. 10 USC 3914 note.

EXTENSION OF CERTAIN PROVISIONS OF LAW RELATING TO PERSONNEL MANAGEMENT OF THE ARMED FORCES

SEC. 10. (a) Public Law 93-397 (10 U.S.C. 8202 note) is amended by striking out "beginning with October 1, 1974, through September 30, 1979" and inserting in lieu thereof "through September 30, 1982".

(b) Subsections (a) and (b) of section 2 of Public Law 95-377 (92 Stat. 719) are amended by striking out "September 30, 1979" and inserting in lieu thereof "September 30, 1982". 10 USC 5707 note.

(c)(1) Section 1201(3) of title 10, United States Code, is amended—

(A) by striking out "or" at the end of subclause (B)(ii);

(B) by striking out the period at the end of subclause (B)(iii) and inserting in lieu thereof "; or"; and

(C) by adding at the end of subclause (B) a new item as follows:

"(iv) the disability was incurred in line of duty during the period beginning on September 15, 1978, and ending on September 30, 1982, except that the condition provided for in this item shall not be effective during such period unless the President determines that such condition should be effective during such period and issues an Executive order to that effect.".

(2) Section 1203(4)(A) of such title is amended— 10 USC 1203.

(A) by striking out "or" at the end of item (i); and

(B) by striking out the semicolon at the end of item (ii) and inserting in lieu thereof ", or (iii) incurred in line of duty during the period beginning on September 15, 1978, and ending on September 30, 1982, except that the condition provided for in this item shall not be effective during such period unless the President determines that such condition should be effective during such period and issues an Executive order to that effect;".

(3) Section 1203(4)(C) of such title is amended by striking out "the proximate result of performing active duty nor incurred in line of duty in time of war or national emergency" and inserting in lieu thereof "(i) the proximate result of performing active duty, (ii) incurred in line of duty in time of war or national emergency, nor (iii) incurred in line of duty during the period beginning on September 15, 1978, and ending on September 30, 1982, except that the condition provided for in this item shall not be effective during such period unless the President determines that such condition should be effective during such period and issues an Executive order to that effect".

(d) Section 5703(a)(1) of title 10, United States Code, is amended to read as follows:

"(1) A board to recommend brigadier generals for promotion to the grade of major general, consisting of nine officers holding permanent appointments in the grade of major general or above, except that before October 1, 1982, such a board may consist of nine officers serving in the grade of major general or above.".

(e) Sections 5787c(b)(2) and 5787d(g) of title 10, United States Code, are amended by striking out "September 30, 1979" and inserting in lieu thereof "September 30, 1982".

ESTABLISHMENT OF NAVY CHAPLAIN CORPS AS A STAFF CORPS OF THE NAVY

SEC. 11. (a) Chapter 513 of title 10, United States Code, relating to Bureaus of the Navy, is amended by striking out section 5142 and inserting in lieu thereof the following:

10 USC 5142.

"§ 5142. Chaplain Corps and Chief of Chaplains

"(a) The Chaplain Corps is a staff corps of the Navy and shall be organized in accordance with regulations prescribed by the Secretary of the Navy.

Appointment.

"(b) There is in the executive part of the Department of the Navy the office of the Chief of Chaplains of the Navy. The Chief of Chaplains shall be appointed by the President, by and with the advice and consent of the Senate, from officers of the Chaplain Corps in the grade of commander or above who are serving on active duty, who are not on the retired list, and who have served on active duty in the Chaplain Corps for at least eight years.

Term of office.

"(c) An officer appointed as the Chief of Chaplains shall be appointed for a term of four years. However, the President may terminate or extend the appointment at any time.

"(d)(1) The Chief of Chaplains shall perform such duties as may be prescribed by the Secretary of the Navy and by law.

"(2) The Chief of Chaplains shall, with respect to all duties pertaining to the procurement, distribution, and support of personnel of the Chaplain Corps, report to and be supported by the Chief of Naval Personnel.

"(e) The Chief of Chaplains of the Navy is entitled to the same rank and privileges of retirement as provided for chiefs of bureaus in section 5133 of this title.

10 USC 5133.

10 USC 5142a.

"§ 5142a. Deputy Chief of Chaplains

"The Secretary of the Navy may detail as the Deputy Chief of Chaplains an officer of the Chaplain Corps in the grade of commander or above who is on active duty, who is not on the retired list, and who has served on active duty in the Chaplain Corps for at least eight years.".

(b) The table of sections at the beginning of chapter 513 of such title is amended by striking out the item relating to section 5142 and inserting in lieu thereof the following:

10 USC 5142.

"5142. Chaplain Corps and Chief of Chaplains.
"5142a. Deputy Chief of Chaplains.".

DEPUTY JUDGE ADVOCATE GENERAL, AIR FORCE

SEC. 12. (a) Section 8072 of title 10, United States Code, is amended by adding at the end thereof the following new subsection:

"(d)(1) There is a Deputy Judge Advocate General in the Air Force, who is appointed by the President, by and with the advice and consent of the Senate, from officers of the Air Force who have the qualifications prescribed in subsection (b) for the Judge Advocate General. The term of office of the Deputy Judge Advocate General is two years, but may be sooner terminated or extended by the President. An officer appointed as Deputy Judge Advocate General shall be appointed in a regular grade to be determined by the Secretary of Defense. Appointment. Term of office.

"(2) When there is a vacancy in the office of the Judge Advocate General, or during the absence or disability of the Judge Advocate General, the Deputy Judge Advocate General shall perform the duties of the Judge Advocate General until a successor is appointed or the absence or disability ceases. Vacancy.

"(3) When paragraph (2) cannot be complied with because of the absence or disability of the Deputy Judge Advocate General, the heads of the major divisions of the Office of the Judge Advocate General, in the order directed by the Secretary of the Air Force, shall perform the duties of the Judge Advocate General, unless otherwise directed by the President.".

(b)(1) The heading of such section is amended to read as follows: 10 USC 8072.

"§ 8072. Judge Advocate General, Deputy Judge Advocate General: appointment; duties".

(2) The item relating to such section in the table of sections at the beginning of chapter 807 of such title is amended to read as follows:

"8072. Judge Advocate General, Deputy Judge Advocate General: appointment; duties.".

AUTHORITY TO RETIRE IN A HIGHER GRADE RESERVE OFFICERS WHO HAVE SERVED IN SPECIAL POSITIONS

SEC. 13. (a)(1) Section 3962(a) of title 10, United States Code, relating to retirement in a higher grade for service in special positions, is amended by striking out "Regular" and by striking out "held by him at any time on the active list" and inserting in lieu thereof "in which he served on active duty".

(2) Section 3962(b) of such title is amended by striking out "Regular". 10 USC 3962

(3) The heading of section 3962 of such title is amended to read as follows:

"§ 3962. Higher grade for service in special positions".

(4) The item relating to section 3962 in the table of sections at the beginning of chapter 369 of such title is amended to read as follows:

"3962. Higher grade for service in special positions.".

(b)(1) Section 8962(a) of title 10, United States Code, relating to retirement in a higher grade for service in special positions, is amended by striking out "Regular" and by striking out "held by him at any time on the active list" and inserting in lieu thereof "in which he served on active duty".

(2) The heading of section 8962 of such title is amended to read as follows: 10 USC 8962.

"§ 8962. Higher grade for service in special positions".

(3) The item relating to section 8962 in the table of sections at the beginning of chapter 869 of such title is amended to read as follows:

"8962. Higher grade for service in special positions.".

Appointment to retired grade. 10 USC 3962 note.

(c)(1) The President may, by and with the advice and consent of the Senate, appoint any commissioned officer of a reserve component of the Armed Forces who retired after December 31, 1967, to the retired grade in which such officer could have been retired had such officer retired on or after the date of the enactment of this Act.

Applicability.

(2) The retired pay of any retired officer who is appointed to a higher retired grade under paragraph (1) shall be recalculated as if such officer had retired in the grade to which appointed, but any increase in such retired pay by virtue of such appointment or this subsection shall be effective only with respect to periods beginning on or after the date on which such appointment is made.

Approved September 8, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 96-440 (Comm. on Armed Services) and No. 96-1233 (Comm. of Conference).

SENATE REPORT No. 96-424 (Comm. on Armed Services).

CONGRESSIONAL RECORD:

Vol. 125 (1979): Sept. 24, 25, considered and passed House.

Vol. 126 (1980): Feb 1, 4, considered and passed Senate, amended.

June 17, House agreed to Senate amendments with amendments.

Aug. 20, Senate agreed to conference report.

Aug. 26, House agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:

Vol. 16, No. 37 (1980): Sept. 8, Presidential statement.

Public Law 96-344
96th Congress

An Act

Sept. 8, 1980
[S. 2680]

To improve the administration of the Historic Sites, Buildings and Antiquities Act of 1935 (49 Stat. 666).

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) in furtherance of the purposes of subsection 2(e) of the Act of August 21, 1935 (49 Stat. 666), the Secretary of the Interior may provide financial assistance for the maintenance and protection of the Folger Library and the Corcoran Gallery of Art.

Historic Sites, Buildings and Antiquities Act, administration improvement.
16 USC 462 note.
16 USC 462.

(b) Authority to enter into contracts or cooperative agreements, to incur obligations, or to make payments under this Act shall be effective only to the extent, and in such amounts, as are provided in advance in appropriation Acts.

SEC. 2. Section 2 of the Joint Resolution entitled, "To provide for the preservation and protection of certain lands in Prince Georges and Charles Counties, Maryland, and for other purposes", approved October 4, 1961 (75 Stat. 780, 781), as amended, is further amended by adding the following after the final period in subsection (c): "The Secretary is authorized to cooperate with the Accokeek Foundation in the operation and maintenance of the National Colonial Farm, and funds appropriated to the Secretary for operation and maintenance of the farm may be made available to the Foundation for such purposes, subject to such terms and conditions as the Secretary may prescribe in furtherance of the purpose of this Act.".

National Colonial Farm, operation and maintenance.

SEC. 3. (a) In order to preserve for the benefit and enjoyment of present and future generations significant properties associated with the life and cultural achievements of Georgia O'Keeffe, the Secretary may acquire—

Donation of land.
16 USC 461 note.

(1) by donation, the site and structures comprising the home and studio situated in Abiquiu, New Mexico, and

(2) by purchase, donation, or exchange not to exceed one acre of detached land for off-site support facilities which the Secretary of the Interior deems necessary for the purposes of this section.

The Secretary may also accept the donation of furnishings and other personal property in connection with the site.

(b) When the site, structures, and other properties authorized for acquisition under subsection (a) have been transferred to the United States, the Secretary shall establish the Georgia O'Keeffe National Historic Site by publication of notice to that effect in the Federal Register. The national historic site established pursuant to this section shall be administered by the Secretary in accordance with this section and the provisions of law generally applicable to the administration of units of the national park system, including the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1, 2-4), and the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461-7).

Georgia O'Keeffe National Historic Site.
Publication in Federal Register.
16 USC 461-467.

(c) There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this section, not to exceed $40,000 for acquisition and $100,000 for development.

Appropriation authorization.

Plan transmittal to congressional committees

(d) Within three complete fiscal years from the effective date of this Act, the Secretary shall submit to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate, a comprehensive general management plan for the historic site, pursuant to the provisions of section 12(b) of the Act of August 18, 1970 (84 Stat. 825; 16 U.S.C. 1a–1 et seq.).

SEC. 4. The Act of October 27, 1972 (86 Stat. 1299, 16 U.S.C. 460bb) is amended as follows:

16 USC 460bb-1

(1) in subsection 2(a), at the end thereof, add the following: "For the purposes of this Act, the southern end of the town of Marshall shall be considered to be the Marshall Boat Works. The following additional lands are also hereby included within the boundaries of the recreation area: Marin County Assessor's parcel numbered 119-040-04, 119-040-05, 119-040-18, 166-202-03, 166-010-06, 166-010-07, 166-010-24, 166-010-25, 119-240-19, 166-010-10, 166-010-22, 119-240-03, 119-240-51, 119-240-52, 119-240-54, 166-010-12, 166-010-13, and 119-235-10";

16 USC 460bb-1

(2) in subsection 5(b), change "three" to "five" and add at the end thereof: "*Provided*, That the terms of those members who have been either appointed or reappointed subsequent to January 1, 1979, shall be extended so as to expire not before June 1, 1985."; and

(3) in subsection 5(g), change "ten" to "twenty".

SEC. 5. The Boston National Historical Park Act of 1974 (88 Stat. 1184) is amended by inserting the following after the first sentence of subsection 2(d): "As used in this section, the Charlestown Navy Yard shall also include the properties known as the Ropewalk and Tar House and the Chain Forge and Round House, designated on such map as buildings numbered 58, 60, and 105."

16 USC 410z note

16 USC 410z

SEC. 6. Subsection 4(b) of the Act entitled "An Act to designate certain lands within units of the National Park System as wilderness; to revise the boundaries of certain of those units; and for other purposes", approved October 20, 1976 (90 Stat. 2692, 2694), is amended by revising the proviso to the first sentence in paragraph (2) to read as follows: "*Provided, however*, That, except for not more than approximately three and thirty-five one-hundredths acres designated herein as wilderness and approximately eleven and thirteen one-hundredths acres designated herein as potential wilderness additions, which may be excluded pursuant to an exchange consummated in accordance with paragraph (3) of this subsection, lands designated as wilderness pursuant to this Act may not be excluded from the monument.".

Golden Spike National Historic Site

16 USC 461 note

SEC. 7. (a) Section 1 of the Act entitled "An Act to authorize the Secretary of the Interior to acquire lands for, and to develop, operate, and maintain, the Golden Spike National Historic Site", approved July 30, 1965 (79 Stat. 426) is amended by striking out "Proposed Golden Spike National Historic Site, Utah, prepared by the National Park Service, Southwest Region, dated February 1963" and inserting in lieu thereof "Boundary Map, Golden Spike National Historic Site, Utah, numbered 431-80,026, and dated December 6, 1978".

79 Stat. 426

(b) Section 3 of such Act is amended by striking out "$5,422,000, as may be necessary for the acquisition of land and interests in land and for the development" and inserting in lieu thereof "$348,000 for the acquisition of land and interests in land and $5,324,000 for development".

Report to congressional committees

(c) Within two years from the effective date of this section, the Secretary shall complete and submit, in writing, to the Committee on

Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate, a report on the feasibility of providing passenger rail service from the city of Ogden, Utah, to the Golden Spike National Historic Site. Said report shall include an assessment of existing rail facilities and rolling stock, additional development as might be required, as well as alternatives with respective costs for the operation of passenger rail service. There is hereby authorized to be appropriated not to exceed $100,000 to carry out the provisions of this subsection.

Appropriation authorization.

SEC. 8. Section 8 of the Act entitled "An Act to improve the administration of the national park system by the Secretary of the Interior, and to clarify the authorities applicable to the system, and for other purposes", approved August 18, 1970 (84 Stat. 825; 16 U.S.C. 1a-1 et seq.), is amended as follows—

16 USC 1a-5.

(1) at the end of the second sentence, insert the following new sentence: "Each such report shall indicate and elaborate on the theme(s) which the area represents as indicated in the National Park System Plan."; and

(2) at the end of the fifth sentence, insert the following new sentence: "Accompanying the annual listing of areas shall be a synopsis, for each report previously submitted, of the current and changed condition of the resource integrity of the area and other relevant factors, compiled as a result of continual periodic monitoring and embracing the period since the previous such submission or initial report submission one year earlier.".

SEC. 9. The Land and Water Conservation Fund Act of 1965 (78 Stat. 987; 16 U.S.C. 4601), is amended—

78 Stat. 897; 16 USC 460*l*-4.

(1) in subsection 4(a) by deleting the second sentence of paragraph (2) and substituting the following: "A 'single visit' means a more or less continuous stay within a designated area. Payment of a single visit admission fee shall authorize exits from and reentries to a single designated area for a period of from one to fifteen days, such period to be defined for each designated area by the administering Secretary based upon a determination of the period of time reasonably and ordinarily necessary for such a single visit.";

"Single visit." 16 USC 460*l*-6a.

(2) by adding at the end of section 4(a) the following new paragraph:

Lifetime admission permit.

"(5) The Secretary of the Interior and the Secretary of Agriculture shall establish procedures providing for the issuance of a lifetime admission permit to any citizen of, or person domiciled in, the United States, if such citizen or person applies for such permit, and is blind or permanently disabled. Such procedures shall assure that such permit shall be issued only to persons who have been medically determined to be blind or permanently disabled for purposes of receiving benefits under Federal law as a result of said blindness or permanent disability as determined by the Secretaries. Such permit shall be nontransferable, shall be issued without charge, and shall entitle the permittee and any person accompanying him in a single, private, noncommercial vehicle, or alternatively, the permittee and his spouse and children accompanying him where entry to the area is by any means other than private, noncommercial vehicle, to general admission into any area designated pursuant to this subsection."; and

16 USC 460*l*-6a.

(3) by amending the last sentence of section 4(b) to read as follows: "Any Golden Age Passport permittee, or permittee

under paragraph (5) of subsection (a) of this section, shall be entitled upon presentation of such permit to utilize such special recreation facilities at a rate of 50 per centum of the established use fee.".

SEC. 10. Title III of the Act entitled "An Act to provide for the establishment of the Lowell National Historical Park in the Commonwealth of Massachusetts, and for other purposes", approved June 5, 1978 (92 Stat. 290; 16 U.S.C. 410cc et seq.), is amended by adding at the end thereof the following new section:

"USE OF FUNDS

16 USC 410cc-37.

"SEC. 307. (a) Any revenues or other assets acquired by the Commission by donation, the lease or sale of property or fees for services shall be available to the Commission, without fiscal year limitation, to be used for any function of the Commission authorized under this Act. The Commission shall keep financial records fully disclosing the amount and source of revenues and other assets acquired by the Commission, and shall keep such other financial records as the Secretary may prescribe.

Retention of records.

"(b) The Secretary shall require audits of the financial records of the Commission to be conducted not less frequently than once each year in order to ensure that revenues and other assets of the Commission are being used in a manner authorized under this Act.".

Audits.

SEC. 11. The Act of October 27, 1972 (86 Stat. 1308), is amended—

16 USC 460cc-2.

(1) in subsection 3(b) by deleting the word "constructed" and by adding at the end thereof: "To inform the public of the contributions of Representative Ryan to the creation of the recreation area, the Secretary shall provide such signs, markers, maps, interpretive materials, literature, and programs as he deems appropriate. Not later than December 31, 1980, the Secretary shall take such additional actions as he deems appropriate to recognize and commemorate the contributions of Representative Ryan to the recreation area."; and

16 USC 460cc-3.

(2) in subsection 4(b), by changing "eleven members" in the first sentence to "fifteen members" and by changing "three members" in paragraph (5) to "seven members".

Moores Creek National Battlefield.
16 USC 422, 422a, 422a-1, 422b, 422c.

SEC. 12. The area formerly known as "Moores Creek National Military Park", established pursuant to the Act of June 2, 1926 (44 Stat. 684), shall henceforth be known as the "Moores Creek National Battlefield".

16 USC 410ee.

SEC. 13. Section 201(e)(1) of the Act entitled "An Act to amend the Pennsylvania Avenue Development Corporation Act of 1972; to provide for the establishment of the San Antonio Missions National Historical Park; and for other purposes", approved November 10, 1978 (92 Stat. 3635), is amended—

(1) by changing "seven members" in the first sentence to "eleven members", and

(2) by changing "two members" in paragraph (F) to "six members".

SEC. 14. The National Trails System Act (82 Stat. 919; 16 U.S.C. 1241) is amended by inserting the following new paragraph at the end of section 5(a):

16 USC 1244.
Overmountain Victory National Historic Trail.

"(9) The Overmountain Victory National Historic Trail, a system totaling approximately two hundred seventy-two miles of trail with routes from the mustering point near Abingdon, Virginia, to Sycamore Shoals (near Elizabethton, Tennessee); from Sycamore Shoals to Quaker Meadows (near Morganton, North Carolina); from the mus-

tering point in Surry County, North Carolina, to Quaker Meadows; and from Quaker Meadows to Kings Mountain, South Carolina, as depicted on the map identified as Map 3—Historic Features—1780 in the draft study report entitled 'Overmountain Victory Trail' dated December 1979. The map shall be on file and available for public inspection in the Office of the Director, National Park Service, Washington, District of Columbia. The trail shall be administered by the Secretary of the Interior.".

Map, public inspection.

Study.

SEC. 15. The Secretary shall conduct a study to determine appropriate measures to protect and interpret for the benefit and education of the public the Falls of the Ohio, including a three-hundred-million-year-old fossilized coral reef which is exposed along the Ohio River in the vicinity of Louisville, Kentucky, and Jeffersonville, Indiana. The Secretary shall, in the course of the study, consult with and seek the advice of, appropriate scientific organizations and representatives of interested municipal, State, and other Federal agencies. Not later than two complete fiscal years from the effective date of this section, the Secretary shall transmit a report of the study, including the estimated costs of alternative measures that may be undertaken to protect and interpret the resources of the area for the public, to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, together with his recommendations for such further legislation as may be appropriate.

Report to congressional committees.

SEC. 16. Section 3(a) of the Wild and Scenic Rivers Act is amended in paragraph (22) by changing "which may be established" in the eighth sentence to "which shall be established".

16 USC 1274.

SEC. 17. In order to provide for the appropriate commemoration of George Meany, past president of the American Federation of Labor and Congress of Industrial Organizations, and his contributions on behalf of the working people of the United States, the Secretary is authorized to investigate sites associated with the life and work of George Meany and to submit, within two complete fiscal years from the effective date of this Act, a report thereon to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate. The Secretary shall consult with representatives of the family of George Meany and the President of the American Federation of Labor and Congress of Industrial Organizations as a part of his investigation.

George Meany commemoration.
Report to congressional committees.

SEC. 18. The Secretary shall conduct, in consultation with the National Aeronautics and Space Administration, the Department of Defense, and any other entities considered by the Secretary to be appropriate, a study of locations and events associated with the historical theme of Man in Space. The purpose of such study shall be to identify the possible locations, components, and features of a new unit of the national park system commemorative to this theme, with special emphasis to be placed on the internationally historic event of the first human contact with the surface of the moon. The study shall investigate practical methodologies to permanently safeguard from change the locations, structures, and at least symbolic instrumentation features associated with this theme, and to display and interpret these for visitor appreciation. Governmental entities controlling these locations, structures, and features are hereby requested to preserve them from destruction or change during the study and congressional review period insofar as is possible. A comprehensive report derived from this study, including potential action alternatives, shall be submitted to the Committee on Interior and Insular

Man in Space commemoration.
Study.

Report to congressional committees.

Affairs of the United States House of Representatives and to the Committee on Energy and Natural Resources of the United States Senate no later than one complete fiscal year after the effective date of this section.

"Secretary."

SEC. 19. As used in this Act, except as otherwise specifically provided, the term "Secretary" means the Secretary of the Interior.

Effective date.

SEC. 20. Authorizations of moneys to be appropriated under this Act shall be effective on October 1, 1980. Notwithstanding any other provision of this Act, authority to enter into contracts, to incur obligations, or to make payments under this Act shall be effective only to the extent, and in such amounts, as are provided in advance in appropriation Acts.

Approved September 8, 1980.

LEGISLATIVE HISTORY:

SENATE REPORT No. 96-754 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 126 (1980):
May 22, considered and passed Senate.
July 31, considered and passed House, amended.
Aug. 18, Senate concurred in House amendment.

Public Law 96-345
96th Congress

An Act

To provide for an accelerated program of wind energy research, development, and demonstration, to be carried out by the Department of Energy with the support of the National Aeronautics and Space Administration and other Federal agencies, and for other purposes.

Sept. 8, 1980
[H.R. 5892]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Wind Energy Systems Act of 1980".

Wind Energy Systems Act of 1980.
42 USC 9201 note.

FINDINGS AND PURPOSE

42 USC 9201.

SEC. 2. (a) The Congress finds that—

(1) the United States is faced with a finite and diminishing resource base of native fossil fuels and, as a consequence, must develop as quickly as possible a diversified, pluralistic national energy capability and posture;

(2) the current imbalance between supply and demand for fuels and energy in the United States is likely to grow for many years;

(3) it is in the Nation's interest to provide opportunities for the increased production of electricity from renewable energy sources;

(4) the early wide-spread utilization of wind energy for the generation of electricity and for mechanical power could lead to relief on the demand for existing non-renewable fuel and energy supplies;

(5) the use of large wind energy systems for certain limited applications is already economically feasible;

(6) the use of small wind energy systems for certain applications is already economically feasible, and therefore, the Federal Government should not undertake any financial incentive or financial initiative which may detrimentally affect commercial markets for small wind energy systems;

(7) an aggressive research, development and demonstration program to accelerate widespread utilization of wind energy should solve existing technical problems of converting wind energy into electricity and mechanical energy and, supported by an assured and growing market for wind energy systems during the next decade, should maximize the future contribution of wind energy to the Nation's future energy production;

(8) it is the proper and appropriate role of the Federal Government to undertake research and development, to participate in demonstration programs for wind energy systems, and to assist private industry, other entities, and the general public in hastening the widespread utilization of such systems;

(9) the widespread use of wind energy systems to supplement and replace conventional methods for the generation of electricity and mechanical power would have a beneficial effect upon the environment;

(10) the evaluation of the performance and reliability of wind energy technologies can be expedited by the testing of prototypes under carefully controlled conditions;

(11) innovation and creativity in the development of components and systems for converting wind energy into electricity and mechanical energy can be fostered through encouraging direct contact between the manufacturers of such components and systems and utilities and other persons interested in utilizing such components and systems; and

(12) consistent with the findings of the Domestic Policy Review on Solar Energy, wind energy can potentially contribute 1.7 quads of energy per year by the year 2000.

(b) It is declared to be the policy of the United States and the purpose of this Act to establish during the next eight years an aggressive research, development, demonstration, and technology applications program for converting wind energy into electricity and mechanical energy. It is declared to be the further policy of the United States and the purpose of this Act that the objectives of such program are—

(1) to reduce the average cost of electricity produced by installed wind energy systems, by the end of fiscal year 1988, to a level competitive with conventional energy sources;

(2) to reach a total megawatt capacity in the United States from wind energy systems, by the end of fiscal year 1988, of at least eight hundred megawatts, of which at least one hundred megawatts are provided by small wind energy systems; and

(3) to accelerate the growth of a commercially viable and competitive industry to make wind energy systems available to the general public as an option in order to reduce national consumption of fossil fuel.

DEFINITIONS

42 USC 9202.

SEC. 3. For purposes of this Act—

(1) the term "wind energy system" means a system of components which converts the kinetic energy of the wind into electricity or mechanical power, and which comprises all necessary components, including energy storage, power conditioning, control systems, and transmission systems, where appropriate, to provide electricity or mechanical power for individual, residential, agricultural, commercial, industrial, utility, or governmental use;

(2) the term "small wind energy system" means a wind energy system having a maximum rated capacity of one hundred kilowatts or less;

(3) the term "large wind energy system" means a wind energy system which is not a small wind energy system;

(4) the term "public and private entity" means any individual, corporation, partnership, firm, association, agricultural cooperative, public- or investor-owned utility, public or private institution or group, any State or local government agency, or any other domestic entity;

(5) the term "known wind resource" means a site with an estimated average annual wind velocity of at least twelve miles per hour;

(6) the term "conventional energy source" means energy produced from oil, gas, coal, and nuclear fuels; and

(7) the term "Secretary" means the Secretary of Energy.

COMPREHENSIVE PROGRAM MANAGEMENT PLAN

42 USC 9203.

SEC. 4. (a) The Secretary shall prepare a comprehensive program management plan for the research, development, demonstration, and technology application activities to carry out the purposes of this Act. The program activities shall be conducted in accordance with such comprehensive plan which shall include—

(1) a five-year program for small wind energy systems,

(2) an eight-year program for large wind energy systems, and

(3) a three-year program for wind resource assessment

which shall be consistent with the provisions of sections 5, 6, and 7. In the preparation of such plan, the Secretary shall consult with the Administrator of the National Aeronautics and Space Administration, the Secretary of the Interior, and the heads of such other Federal agencies and such public and private organizations as he deems appropriate.

Consultation.

(b) The Secretary shall transmit the comprehensive program management plan to the Committee on Science and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate within nine months after the date of the enactment of this Act.

Transmittal to congessional committees.

(c) Concurrently with the submission of the President's annual budget to the Congress for each year after the year in which the comprehensive plan is initially transmitted under subsection (b), the Secretary shall transmit to the Congress a detailed description of the comprehensive plan as then in effect, setting forth the modifications which may be necessary to appropriately revise such plan and any changes in circumstances which may have occurred since the plan or the last previous modification thereof was transmitted in accordance with this section. The detailed description of the comprehensive plan under this subsection shall include but need not be limited to a statement setting forth with respect to each of the programs under this Act any changes in—

Detailed description of plan, transmittal to Congress.

(1) the anticipated research, development, demonstration, and technology application objectives to be achieved by the program;

(2) the program elements, management structure, and activities, including any regional aspects and field responsibilities thereof;

(3) the program strategies and technology applications plans, including detailed milestone goals to be achieved during the next fiscal year for all major activities and projects;

(4) any significant economic, environmental, and societal effects which the program may have;

(5) the total estimated cost of individual program items; and

(6) the estimated relative financial contributions of the Federal Government and non-Federal participants in the program.

Such description shall also include a detailed justification of any such changes, a detailed description of the progress made toward achieving the goals of this Act, a statement on the status of interagency cooperation in meeting such goals, and any legislative or other recommendations which the Secretary may have to help attain such goals.

RESEARCH, DEVELOPMENT, AND DEMONSTRATION

42 USC 9204.

SEC. 5. (a) The Secretary shall initiate research and development or accelerate existing research and development in areas in which the

lack of knowledge limits the widespread utilization of wind energy systems in order to achieve the purposes of this Act.

Advanced wind energy systems.

(b)(1) The Secretary shall continue an aggressive program for the development of prototypes of advanced wind energy systems.

New or improved technology proposals.

(2) As often as he deems appropriate, the Secretary shall solicit and evaluate proposals for the research and development of any new or improved technologies, which, in the Secretary's opinion, will contribute to the development of improvements in current wind energy systems.

(c) The Secretary is authorized to enter into contracts, grants, and cooperative agreements with public and private entities for the purchase, fabrication, installation, and testing to obtain scientific, technological, and economic information from the demonstration of a variety of prototypes of advanced wind energy systems under a variety of circumstances and conditions.

(d) In carrying out the responsibilities under this section, the Secretary is not subject to the requirements of section 553 of title 5, United States Code, or section 501 of the Department of Energy Organization Act (42 U.S.C. 7191).

TECHNOLOGY APPLICATION PROGRAMS

42 USC 9205.

SEC. 6. (a) The Secretary shall establish a technology application program for wind energy systems to achieve the purposes of this Act by reduction in unit costs of wind energy systems through mass production and by determination of operating and maintenance costs through broad operational systems experience.

Federal assistance proposals.

(b) In achieving the objectives of this section, the Secretary shall solicit and evaluate proposals for Federal assistance pursuant to paragraphs (1), (2), and (3) of subsection (c) for investigating, purchasing, and installing such wind energy systems from public or private entities wishing to utilize wind energy systems.

(c) In achieving the objectives of this section, the Secretary is authorized to use various forms of Federal assistance including, but not limited to—

(1) contracts and cooperative agreements;
(2) grants;
(3) loans; and
(4) direct Federal procurement.

(d) In carrying out his duties under this Act, the Secretary is authorized to enter into such contracts and cooperative agreements with any public or private entity as may be necessary or appropriate for the production and utilization of large and small wind energy systems in quantities sufficient to achieve the objectives of this section.

Grants.

(e) In carrying out his duties under this Act, the Secretary shall, within six months of the date of enactment of this Act, establish procedures to allow any public or private entity wishing to install a large wind energy system to apply for and, upon meeting such terms and conditions as the Secretary may prescribe, to receive a direct grant for a portion of the total purchase and installation cost of such wind energy system: *Provided,* That grants for the portion of such cost in the case of large wind energy systems shall not exceed (A) 50 per centum of such cost during the first six years of the program under this subsection, and (B) 25 per centum of such cost during the seventh or eighth year of the program.

Loans.

(f)(1) In carrying out his duties under this Act, the Secretary shall, within six months of the date of enactment of this Act, establish

procedures to allow public or private entities wishing to install a small or large wind energy system to apply for and, upon meeting such terms and conditions as the Secretary may prescribe, to receive loans for up to 75 per centum of the total purchase and installation costs of wind energy systems providing in the aggregate up to three hundred and twenty megawatts peak generating capacity involving at a minimum four projects: *Provided,* That no such loan in any fiscal year shall be for more than 50 per centum of the amount appropriated under this Act for such fiscal year.

(2) Each loan shall be for a term which the Secretary deems appropriate, but no loan shall exceed twenty years beyond the date the wind energy system becomes operational.

(3) Each loan made pursuant to this section shall bear interest at the discount or interest rate used at the time the loan is made for water resource planning projects under section 80 of the Water Resources Development Act of 1974 (42 U.S.C. 1962(d)-17(a)). Such loan can be prepaid at any time without prepayment penalty and shall be contingent upon such other terms and conditions prescribed by the Secretary.

Interest rate.

42 USC 1962d-17.

(g)(1) In carrying out his duties under this Act, the Secretary is authorized to provide funds for the accelerated procurement and installation of small and large wind energy systems by Federal agencies.

(2) The Secretary is authorized to enter into arrangements with appropriate Federal agencies, including the Water and Power Resources Services and the Federal power marketing agencies for large wind energy systems, to carry out such projects and activities as may be appropriate for the broad technology applications of small and large wind energy systems which are suitable and effective for use by such Federal agencies.

Arrangements with appropriate Federal agencies.

(h) The terms and conditions prescribed by the Secretary under this subsection shall require such observation, monitoring, and reporting requirements as the Secretary deems necessary for a period of five years and shall provide for members of the public to view and inspect the system under reasonable conditions.

Terms and conditions.

(i) New Federal assistance for technology applications systems shall terminate upon the appropriate determination by the Secretary, in the annual update of the comprehensive program management plan pursuant to section 4. Termination of the small wind energy systems program shall occur when the Secretary finds that such systems have become economically competitive with conventional energy sources, or on September 30, 1985, whichever occurs first. Termination of the large wind energy systems program shall occur when the Secretary finds that such systems have become economically competitive with conventional energy sources, or on September 30, 1988, whichever occurs first.

Terminations.

WIND RESOURCE ASSESSMENT

SEC. 7. The Secretary shall initiate a three-year national wind resource assessment program. As part of such program, the Secretary shall—

42 USC 9206.

(1) conduct activities to validate existing assessments of known wind resources;

(2) perform wind resource assessments in regions of the United States where the use of wind energy may prove feasible;

(3) initiate a general site prospecting program;

(4) establish standard wind data collection and siting techniques; and

National wind data center.

(5) establish, in consultation with the Administrator of the National Oceanic and Atmospheric Administration, the Administrator of the National Aeronautics and Space Administration, and the Administrator of the Environmental Protection Agency, a national wind data center which shall make public information available on the known wind energy resources of various regions throughout the United States.

CRITERIA FOR PROGRAM SELECTION

42 USC 9207.

SEC. 8. The Secretary shall set priorities which are, as far as possible, consistent with the intent and purposes of this Act and which are set in accordance with the following criteria:

(1) the construction, operation, and maintenance costs of wind energy systems shall be minimized;

(2) programs established under this Act shall be conducted with the express intent of bringing wind energy system costs down to a level competitive with energy costs from conventional energy systems;

(3) priority shall be given in the conduct of programs established under this Act to those projects in which cost-sharing funds are provided by private, industrial, agricultural, or governmental entities or utilities; and

(4) to the extent that the Secretary is limited by the availability of funds to carry out the objectives of this Act, priority, but not exclusive emphasis, should be given in the early years of the programs to activities under sections 5 and 7 and in the later years of the programs to activities under section 6.

MONITORING, INFORMATION GATHERING, AND LIAISON

42 USC 9208.

SEC. 9. (a) The Secretary, in coordination with such Government agencies as may be appropriate, shall—

(1) monitor the performance and operation of wind energy systems installed under this Act;

(2) collect and evaluate data and information on the performance and operation of wind energy systems installed under this Act; and

Reports to Congress.

(3) from time to time carry out such studies and investigations and take such other actions, including the submission of special reports to the Congress when appropriate, as may be necessary to assure that the programs for which the Secretary is responsible under this Act effectively carry out the purposes of this Act.

(b) The Secretary shall also maintain continuing liaison with related industries and interests and with the scientific and technical community in order to assure that the benefits of programs under this Act are and will continue to be realized to the maximum extent feasible.

(c) The Secretary shall assure, subject to section 552 of title 5, United States Code, and section 1905 of title 18, United States Code, that full and complete information with respect to any program, project, or other activity conducted under this Act is made available to Federal, State, and local authorities, relevant segments of the economy, the scientific community, and the public so that the early, widespread, and practical use of wind energy throughout the United States is promoted to the maximum extent feasible.

UTILIZATION OF CAPABILITIES AND FACILITIES

SEC. 10. The Secretary shall utilize the technological and management capabilities, equipment, and facilities of the National Aeronautics and Space Administration to the maximum extent practicable in carrying out his duties under this Act, and shall enter into such additional agreements with the Administrator of such Administration as may be necessary for this purpose. 42 USC 9209.

ANALYSIS OF APPLICATIONS OF WIND ENERGY SYSTEMS

SEC. 11. The Secretary shall— Federal applications study. 42 USC 9210.

(1) initiate and conduct a federal applications study for wind energy systems, cooperatively with appropriate Federal agencies to determine the potential for the use of wind systems at specific Federal facilities; and this study shall—

(A) include an analysis which determines those sites at which wind energy systems are economically competitive with the marginal costs of new conventional energy sources in the areas;

(B) identify potential sites and uses of wind energy systems at the following agencies as well as any others which the Secretary deems necessary:

(i) the Department of Defense;

(ii) the Department of Transportation (including the United States Coast Guard, the Federal Aviation Administration, and the Federal Highway Administration);

(iii) the Department of Commerce;

(iv) the Department of Agriculture; and

(v) the Department of the Interior;

(C) provide a preliminary report to the Congress within nine months after the date of enactment of this Act; and Report to Congress.

(D) include the presentation of a detailed plan for the use of wind energy systems for power generation at specific sites in Federal Government agencies to the Congress within twelve months after the date of enactment of this Act; Detailed plan, presentation to Congress.

(2) study the effects, at varying levels of market penetration, of the widespread utilization of wind energy systems on the existing electrical utility system;

(3) determine the necessity for, and make recommendations to the Committee on Energy and Natural Resources of the Senate and the Committee on Science and Technology of the House of Representatives within eighteen months after the date of enactment of this Act on, the need for any additional incentives for either users or manufacturers, in each of the potential markets for wind energy systems, to accelerate the widespread utilization of wind energy technologies; Recommendations to congressional committees.

(4) evaluate the actual performance of wind energy systems in various applications, including but not limited to residential, agricultural, large and small scale irrigation pumping, industrial, commercial, remote nonnetwork utility, and other applications, and report thereon to the Congress within two years after the date of enactment of this Act; Evaluation; report to Congress.

(5) initiate and conduct a study involving the prospects for applications of wind energy systems for power generation in foreign countries, particularly lesser developed countries and the potential for the exploration of these energy systems. This study Study.

shall involve the cooperation of the Department of State and the Department of Commerce, as well as other Federal agencies which the Secretary deems appropriate. A final report shall be submitted to the Congress, as well as a preliminary report within twelve months of the date of enactment of this Act; and

Reports to Congress.

(6) in carrying out his functions under this section, consult with the appropriate government agencies, industry representatives, and members of the scientific and technical community having expertise and interest in this subject.

Merging of studies.

The Secretary, as appropriate, may merge any continuing or on-going studies within the Department of Energy or any other Federal agency with those required under this section to avoid any unnecessary duplication of effort or funding.

ENCOURAGEMENT AND PROTECTION OF SMALL BUSINESS

42 USC 9211.

SEC. 12. (a) In carrying out his functions under this Act, the Secretary shall take steps to assure that small business concerns will have realistic and adequate opportunities to participate in the programs under this Act to the maximum extent practicable.

(b) The Secretary shall, to the maximum extent practicable, use all authority provided by law to protect trade secrets and other proprietary information submitted by small business under this Act and to avoid the unnecessary disclosure of such information.

Compliance with antitrust laws.

(c) The Secretary shall take such steps as may be necessary to assure compliance with the antitrust laws in the conduct of activities related to the manufacture or sale of wind energy systems directly or indirectly assisted under this Act, and shall implement this Act in a manner which will protect against the creation of noncompetitive market situations in the conduct of such activities.

GENERAL PROVISIONS

42 USC 9212.

SEC. 13. (a) Nothing in this Act shall be construed as preventing the Secretary from undertaking projects or activities in addition to those specified in this Act if such projects or activities appropriately further the purposes set forth in this subsection.

(b) This Act applies to each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands and the territories and possessions of the United States including the Trust Territory of the Pacific Islands.

AUTHORIZATION OF APPROPRIATIONS

42 USC 9213.

SEC. 14. (a) There is authorized to be appropriated to the Secretary to carry out this Act (1) for the fiscal year ending September 30, 1981, the sum of $100,000,000 (of which $10,000,000 shall be available exclusively for purposes of section 7), and (2) for each fiscal year beginning after that date, such sum as may be authorized by legislation hereafter enacted.

(b) In each of the five years of the small wind energy systems program, at least 25 per centum of the total authorization for appropriations under subsection (a) shall be for small wind energy systems activities, including supporting activities.

Approved September 8, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 96-662 (Comm. on Science and Technology) and No. 96-1217 (Comm. of Conference).
SENATE REPORT No. 96-753 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 125 (1979): Dec. 3, 4, considered and passed House.
Vol. 126 (1980): June 16, considered and passed Senate, amended.
June 20, House concurred in Senate amendment to the text with an amendment, and concurred in the Senate amendment to the title.
Aug. 6, Senate agreed to conference report.
Aug. 26, House agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:
Vol. 16, No. 37 (1980): Sept. 8, Presidential statement.

Public Law 96-346
96th Congress

An Act

Sept. 10, 1980
[H.R. 7072]

To amend sections 5702 and 5704 of title 5, United States Code, to increase the maximum rates for per diem and actual subsistence expenses and mileage allowances of Government employees on official travel, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 5702 of title 5, United States Code, is amended—

Government travel expense allowances, increase.

(1) by striking out "$35" in subsection (a) and inserting in lieu thereof "$50";

(2) by striking out "$50" in subsection (c) and inserting in lieu thereof "$75"; and

(3) by striking out "$21" in subsection (d) and inserting in lieu thereof "$33".

SEC. 2. Section 5704 of title 5, United States Code, is amended—

(1) by striking out "11 cents" in subsection (a)(1) and inserting in lieu thereof "20 cents";

(2) by striking out "20 cents" in subsection (a)(2) and inserting in lieu thereof "25 cents"; and

(3) by striking out "24 cents" in subsection (a)(3) and inserting in lieu thereof "45 cents".

5 USC 5702 note.

SEC. 3. To make available to Congress information in order that it may evaluate and reduce excessive per diem and mileage allowance payments:

GSA-conducted travel survey.

(a) The Administrator of General Services shall, based upon a sampling survey, collect by fiscal year the following information (compiled separately for payments made under sections 5702 and 5704 of title 5, United States Code, and for each agency evaluated) with respect to agencies spending more than $5,000,000 annually on transportation of people:

(1) identification of the general causes and purposes of travel, both foreign and domestic, estimates of total payments, average cost and duration of trip, and an explanation of how these estimates were determined; and

(2) identification by specific agency of travel practices which appear to be inefficient from a travel management or program management standpoint and recommendations to the Congress on the applicability of alternatives to travel as well as other techniques to improve the use of travel in carrying out program objectives by relating travel to mission.

Report to Congress.

(b)(1) The Administrator shall report the information required by subsection (a) to the Congress for fiscal year 1979 by February 1, 1981; for fiscal year 1980 by June 1, 1981; and for fiscal year 1981 by June 1, 1982.

(2) The Administrator is empowered to issue such rules and regulations as are necessary to ensure that the information is submitted by the various agencies to him in a manner that permits comparisons among the agencies and to permit him to compile the information required to be included in the annual report. Rules and regulations.

Approved September 10, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1021 (Comm. on Government Operations).
SENATE REPORT No. 96-904 (Comm. on Governmental Affairs).
CONGRESSIONAL RECORD, Vol. 126 (1980):
June 9, considered and passed House.
Aug. 27, considered and passed Senate.

Public Law 96-347
96th Congress

An Act

Sept. 12, 1980
[H.R. 1781]

To amend title 5, United States Code, to provide that civilian air traffic controllers of the Department of Defense shall be treated the same as air traffic controllers of the Department of Transportation for purposes of retirement, and for other purposes.

Air traffic controllers, retirement provisions.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 2109 of title 5, United States Code, is amended to read as follows:

"§ 2109. Air traffic controller; Secretary

Definitions.

"For the purpose of this title—

"(1) 'air traffic controller' or 'controller' means an employee of the Department of Transportation or the Department of Defense who, as determined under regulations prescribed by the Secretary, is actively engaged in the separation and control of air traffic, or is the immediate supervisor of an employee actively engaged in the separation and control of air traffic, in an air traffic control facility; and

"(2) 'Secretary', when used in connection with 'air traffic controller' or 'controller', means the Secretary of Transportation with respect to controllers in the Department of Transportation, and the Secretary of Defense with respect to controllers in the Department of Defense.".

(b) Sections 3307(b), 3381(a), 3382, 3383(a), 3384, 3385, and 8335(a) of title 5, United States Code, are each amended by striking out "Secretary of Transportation" each place it appears and inserting in lieu thereof "Secretary".

(c)(1) Section 3381(c)(1) of title 5, United States Code, is amended by striking out "in the Department of Transportation" and inserting in lieu thereof "in the Executive agency in which the controller is employed".

(2) Section 3383(b)(2) of title 5, United States Code, is amended by striking out "the Department of Transportation" and inserting in lieu thereof "the Executive agency in which the controller is employed".

(3) Section 3383(d) of title 5, United States Code, is amended by striking out "within the Department of Transportation" and inserting in lieu thereof "within the Executive agency in which such controller is employed".

(d) The analysis of chapter 21, of title 5, United States Code, is amended by striking out the item relating to section 2109 and inserting in lieu thereof the following:

"2109. Air traffic controller; Secretary.".

SEC. 2. Section 8335(a) of title 5, United States Code, shall not apply to an individual appointed as an air traffic controller in the Department of Defense before the date of the enactment of this Act. 5 USC 8335 note.

SEC. 3. This Act shall take effect on the later of— Effective date. 5 USC 2109 note.

(1) October 1, 1980, or

(2) the ninetieth day after the date of the enactment of this Act.

Approved September 12, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1076 (Comm. on Post Office and Civil Service).
SENATE REPORT No. 96-902 (Comm. on Governmental Affairs).
CONGRESSIONAL RECORD, Vol. 126 (1980):
June 9, considered and passed House.
Aug. 27, considered and passed Senate.

79-194 O—81—pt. 1——76 : QL3

Public Law 96-348
96th Congress

An Act

Sept. 12, 1980
[H.R. 1967]

To modify the boundary of the White River National Forest in the State of Colorado.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

White River National Forest, Colo., boundary modification.

SECTION 1. The exterior boundary of the White River National Forest in the State of Colorado is hereby modified to include additional areas of approximately thirty-two thousand three hundred and seven (32,307) acres and three thousand eight hundred and forty-one (3,841) acres, in Eagle and Pitkin Counties, respectively, as generally depicted on the maps entitled "Boundary Modification, White River National Forest, Colorado" (Minturn Addition and Aspen Addition), dated July 1980.

SEC. 2. Except as provided in section 3 of this Act, all lands owned by the United States in the areas described in section 1 of this Act are hereby added to the White River National Forest, and except as provided in section 4 hereof, shall be administered in accordance with the laws, rules, and regulations applicable thereto.

SEC. 3. The tracts of land identified in sales applications, Bureau of Land Management, serial numbers C-14117 and C-28389, shall not become a part of the White River National Forest unless such applications are denied, and if they are denied in accordance with the laws, rules, and regulations applicable thereto, such lands shall become part of the national forest and be administered in accordance with section 2 of the date of issuance of the denial.

Permits or grazing authorizations.

SEC. 4. Except as provided in this section, nothing in this Act shall affect the validity or term of any existing withdrawal, right-of-way, license, lease, easement, or prospecting permit issued pursuant to the Mineral Leasing Act of 1920, as amended (30 U.S.C. 181 et seq.) covering lands transferred by this Act. Any other existing permit or grazing authorization covering lands transferred by this Act is hereby canceled effective December 31 of the year following enactment of this Act. During the period between enactment of this Act and said December 31, such permit or grazing authorization shall continue to be administered by the agency which initially issued the permit or grazing authorization. On or before said December 31, the holders of such permit or grazing authorization may apply for a new permit or grazing authorization to the agency which acquires administrative jurisdiction of the land which such prior authorizations cover. The provisions of section 402(g) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1752(g)) shall not apply to the termination of any grazing authorization pursuant to this section.

SEC. 5. For the purpose of section 6 (renumbered section 7 by the Act of July 11, 1972, 86 Stat. 459) of the Land and Water Conservation Fund Act of 1965 (78 Stat. 903, as amended; 16 U.S.C. 4601-9) the boundary of the White River National Forest, as modified by section 1 of this Act, shall be treated as if it were the boundary of that forest on January 1, 1965. 16 USC 460*l*-9.

SEC. 6. The provisions of this Act shall take effect on the date of enactment of this Act. Effective date.

Approved September 12, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-599 (Comm. on Interior and Insular Affairs).
SENATE REPORT No. 96-664 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 125 (1979): Nov. 14, considered and passed House.
Vol. 126 (1980): June 5, considered and passed Senate, amended.
Aug. 21, House concurred in Senate amendment with an amendment.
Aug. 27, Senate agreed to House amendment.

Public Law 96-349
96th Congress

An Act

To expedite and reduce the cost of antitrust litigation, and for other purposes.

Sept. 12, 1980
[S. 390]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Antitrust Procedural Improvements Act of 1980".

Antitrust Procedural Improvements Act of 1980.
15 USC 1311 note.

CIVIL INVESTIGATIVE DEMANDS FOR PRODUCTS OF DISCOVERY

SEC. 2. (a) Section 2 of the Antitrust Civil Process Act (15 U.S.C. 1311; 76 Stat. 548) is amended—

(1) in subsection (g), by striking out "; and" at the end thereof and inserting in lieu thereof the following: ", and any product of discovery;";

(2) in subsection (h), by striking out the period at the end thereof and inserting in lieu thereof a semicolon; and

(3) by adding at the end thereof the following new paragraph:

"(i) The term 'product of discovery' includes without limitation the original or duplicate of any deposition, interrogatory, document, thing, result of the inspection of land or other property, examination, or admission obtained by any method of discovery in any judicial litigation or in any administrative litigation of an adversarial nature; any digest, analysis, selection, compilation, or any derivation thereof; and any index or manner of access thereto; and".

"Product of discovery."

(b)(1) Section 3(a) of the Antitrust Civil Process Act (15 U.S.C. 1312(a)) is amended by adding at the end thereof the following new sentence: "Whenever a civil investigative demand is an express demand for any product of discovery, the Attorney General or the Assistant Attorney General in charge of the Antitrust Division shall cause to be served, in any manner authorized by this section, a copy of such demand upon the person from whom the discovery was obtained and notify the person to whom such demand is issued of the date on which such copy was served.".

Civil investigative demands.

(2) Section 3(b) of that Act (15 U.S.C. 1312(b)) is amended by adding at the end thereof the following new sentence:

"Any such demand which is an express demand for any product of discovery shall not be returned or returnable until twenty days after a copy of such demand has been served upon the person from whom the discovery was obtained.".

(3) Section 3(c) of that Act (15 U.S.C. 1312(c)) is amended—

(A) by inserting "(1)" immediately after "(c)";

(B) by striking out "(1)" and inserting in lieu thereof "(A)";

(C) by striking out "(2)" and inserting in lieu thereof "(B)"; and

(D) by adding at the end thereof the following new paragraph:

"(2) Any such demand which is an express demand for any product of discovery supersedes any inconsistent order, rule, or provision of law (other than this Act) preventing or restraining disclosure of such product of discovery to any person. Disclosure of any product of discovery pursuant to any such express demand does not constitute a

Disclosure or restrain.

waiver of any right or privilege, including without limitation any right or privilege which may be invoked to resist discovery of trial preparation materials, to which the person making such disclosure may be entitled.".

Responsibility for materials, disclosure.

(4) Paragraph (3) of section 4(c) of that Act (15 U.S.C. 1313(c)(3)) is amended by inserting immediately after "transcripts" the second place it appears the following: ", and, in the case of any product of discovery produced pursuant to an express demand for such material, of the person from whom the discovery was obtained".

Judicial proceedings.

(5) Section 5 of that Act (15 U.S.C. 1314) is amended—

(A) by amending subsection (b) to read as follows:

Demand for material, petition; modification.

"(b)(1) Within twenty days after the service of any such demand upon any person, or at any time before the return date specified in the demand, whichever period is shorter, or within such period exceeding twenty days after service or in excess of such return date as may be prescribed in writing, subsequent to service, by any antitrust investigator named in the demand, such person may file and serve upon such antitrust investigator, and in the case of an express demand for any product of discovery upon the person from whom such discovery was obtained, a petition for an order modifying or setting aside such demand—

"(A) in the district court of the United States for the judicial district within which such person resides, is found, or transacts business; or

"(B) in the case of a petition addressed to an express demand for any product of discovery, only in the district court of the United States for the judicial district in which the proceeding in which such discovery was obtained is or was last pending.

Compliance.

"(2) The time allowed for compliance with the demand in whole or in part as deemed proper and ordered by the court shall not run during the pendency of such petition in the court, except that such person shall comply with any portions of the demand not sought to be modified or set aside. Such petition shall specify each ground upon which the petitioner relies in seeking such relief and may be based upon any failure of such demand to comply with the provisions of this Act, or upon any constitutional or other legal right or privilege of such person.";

(B) by redesignating subsections (c), (d), (e), and (f) as subsections (d), (e), (f), and (g), respectively;

(C) by inserting immediately after subsection (b) the following new subsection:

Portions of demand, petition; modification.

"(c) Whenever any such demand is an express demand for any product of discovery, the person from whom such discovery was obtained may file, at any time prior to compliance with such express demand, in the district court of the United States for the judicial district in which the proceeding in which such discovery was obtained is or was last pending, and serve upon any antitrust investigator named in the demand and upon the recipient of the demand, a petition for an order of such court modifying or setting aside those portions of the demand requiring production of any such product of discovery. Such petition shall specify each ground upon which the petitioner relies in seeking such relief and may be based upon any failure of such portions of the demand to comply with the provisions of this Act, or upon any constitutional or other legal right or privilege of the petitioner. During the pendency of such petition, the court may stay, as it deems proper, compliance with the demand and the running of the time allowed for compliance with the demand."; and

(D) in subsection (d), as that subsection has been redesignated by subparagraph (B), by inserting immediately after "such person" the following: ", and, in the case of an express demand for any product of discovery, the person from whom such discovery was obtained,".

SANCTIONS FOR ATTORNEY DELAY

SEC. 3. Section 1927 of title 28, United States Code, is amended—

(1) by striking out "as to increase costs"; and

(2) by striking out "such excess costs" and inserting in lieu thereof "the excess costs, expenses, and attorneys' fees reasonably incurred because of such conduct".

PREJUDGMENT INTEREST

SEC. 4. (a)(1) Section 4 of the Clayton Act (15 U.S.C. 15) is amended by adding at the end thereof the following new sentences: "The court may award under this section, pursuant to a motion by such person promptly made, simple interest on actual damages for the period beginning on the date of service of such person's pleading setting forth a claim under the antitrust laws and ending on the date of judgment, or for any shorter period therein, if the court finds that the award of such interest for such period is just in the circumstances. In determining whether an award of interest under this section for any period is just in the circumstances, the court shall consider only—

Suits by persons injured.

Award of interest, eligibility.

"(1) whether such person or the opposing party, or either party's representative, made motions or asserted claims or defenses so lacking in merit as to show that such party or representative acted intentionally for delay, or otherwise acted in bad faith;

"(2) whether, in the course of the action involved, such person or the opposing party, or either party's representative, violated any applicable rule, statute, or court order providing for sanctions for dilatory behavior or otherwise providing for expeditious proceedings; and

"(3) whether such person or the opposing party, or either party's representative, engaged in conduct primarily for the purpose of delaying the litigation or increasing the cost thereof.".

Suits by U.S.

(2) Section 4A of the Clayton Act (15 U.S.C. 15a) is amended by adding at the end thereof the following new sentences: "The court may award under this section, pursuant to a motion by the United States promptly made, simple interest on actual damages for the period beginning on the date of service of the pleading of the United States setting forth a claim under the antitrust laws and ending on the date of judgment, or for any shorter period therein, if the court finds that the award of such interest for such period is just in the circumstances. In determining whether an award of interest under this section for any period is just in the circumstances, the court shall consider only—

Award of interest, eligibility.

"(1) whether the United States or the opposing party, or either party's representative, made motions or asserted claims or defenses so lacking in merit as to show that such party or representative acted intentionally for delay or otherwise acted in bad faith;

"(2) whether, in the course of the action involved, the United States or the opposing party, or either party's representative, violated any applicable rule, statute, or court order providing for

sanctions for dilatory behavior or otherwise providing for expeditious proceedings;

"(3) whether the United States or the opposing party, or either party's representative, engaged in conduct primarily for the purpose of delaying the litigation or increasing the cost thereof; and

"(4) whether the award of such interest is necessary to compensate the United States adequately for the injury sustained by the United States.".

Award to States.

(3) Section 4C(a)(2) of the Clayton Act (15 U.S.C. 15c(a)(2)) is amended by adding at the end thereof the following new sentences: "The court may award under this paragraph, pursuant to a motion by such State promptly made, simple interest on the total damage for the period beginning on the date of service of such State's pleading setting forth a claim under the antitrust laws and ending on the date of judgment, or for any shorter period therein, if the court finds that the award of such interest for such period is just in the circumstances. In determining whether an award of interest under this paragraph for any period is just in the circumstances, the court shall consider only—

Eligibility.

"(A) whether such State or the opposing party, or either party's representative, made motions or asserted claims or defenses so lacking in merit as to show that such party or representative acted intentionally for delay or otherwise acted in bad faith;

"(B) whether, in the course of the action involved, such State or the opposing party, or either party's representative, violated any applicable rule, statute, or court order providing for sanctions for dilatory behavior or otherwise providing for expeditious proceedings; and

"(C) whether such State or the opposing party, or either party's representative, engaged in conduct primarily for the purpose of delaying the litigation or increasing the cost thereof.".

Effective date. 15 USC 15 note.

(b) The amendments made by this section shall apply only with respect to actions commenced after the date of the enactment of this Act.

APPLICATION OF COLLATERAL ESTOPPEL

SEC. 5. (a) Section 5(a) of the Clayton Act (15 U.S.C. 16(a)) is amended—

(1) by striking out "or by the United States under section 4A,";

(2) by striking out "or to judgments or decrees entered in actions under section 4A"; and

(3) by inserting at the end thereof the following new sentence: "Nothing contained in this section shall be construed to impose any limitation on the application of collateral estoppel, except that, in any action or proceeding brought under the antitrust laws, collateral estoppel effect shall not be given to any finding made by the Federal Trade Commission under the antitrust laws or under section 5 of the Federal Trade Commission Act which could give rise to a claim for relief under the antitrust laws.".

15 USC 45.

15 USC 16 note.

(b) The amendments made by this section shall not apply with respect to any actions brought by or on behalf of the United States under the antitrust laws before the date of the enactment of this Act.

MERGER JURISDICTION

SEC. 6. (a) Section 7 of the Clayton Act (15 U.S.C. 18) is amended—

(1) by striking out "corporation" each place it appears in the first and second paragraphs and inserting in lieu thereof "person" in each such place;

(2) by striking out "corporations" in the second paragraph and in the first sentence of the third paragraph and inserting in lieu thereof "persons"; and

(3) by inserting "or in any activity affecting commerce" after "commerce" each place it appears in the first three paragraphs.

Effective date. 15 USC 18 note.

(b) The amendments made by this section shall apply only with respect to acquisitions made after the date of the enactment of this Act.

USE OF AGENTS BY THE DEPARTMENT OF JUSTICE

SEC. 7. (a)(1) Section 2 of the Antitrust Civil Process Act (15 U.S.C. 1311), as amended by section 2 of this Act, is further amended by adding at the end thereof the following new paragraph:

"Agent."

"(j) The term 'agent' includes any person retained by the Department of Justice in connection with the enforcement of the antitrust laws.".

Ante, p. 1155.

(2) Paragraphs (2) and (3) of section 4(c) of the Antitrust Civil Process Act (15 U.S.C. 1313(c) (2) and (3)) are amended by striking out "official or employee" each place it appears and inserting in lieu thereof "official, employee, or agent" in each such place.

(b) Section 1905 of title 18, United States Code, is amended by inserting after "thereof," the first place it appears the following: "or agent of the Department of Justice as defined in the Antitrust Civil Process Act (15 U.S.C. 1311–1314),".

Approved September 12, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 96-875 (Comm. on the Judiciary) accompanying H.R. 4048 and No. 96-1234 (Comm of Conference).

SENATE REPORT No. 96-238 (Comm. on the Judiciary).

CONGRESSIONAL RECORD:

Vol. 125 (1979): July 20, considered and passed Senate.

Vol. 126 (1980): June 12, H.R. 4048 considered and passed House; passage vacated and S. 390, amended, passed in lieu.

Aug. 18, Senate agreed to conference report.

Aug. 28, House agreed to conference report.

[See also the following bills and their accompanying reports: H.R. 4046, H.R. 4049, H.R. 4050, and H.R. 5949.]

Public Law 96-350
96th Congress

An Act

To facilitate increased enforcement by the Coast Guard of laws relating to the importation of controlled substances, and for other purposes.

Sept. 15, 1980
[H.R. 2538]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) it is unlawful for any person on board a vessel of the United States, or on board a vessel subject to the jurisdiction of the United States on the high seas, to knowingly or intentionally manufacture or distribute, or to possess with intent to manufacture or distribute, a controlled substance.

Coast Guard.
Enforcement of importation laws.
21 USC 955a.

(b) It is unlawful for a citizen of the United States on board any vessel to knowingly or intentionally manufacture or distribute, or to possess with intent to manufacture or distribute, a controlled substance.

(c) It is unlawful for any person on board any vessel within the customs waters of the United States to knowingly or intentionally manufacture or distribute, or to possess with intent to manufacture or distribute, a controlled substance.

(d) It is unlawful for any person to possess, manufacture, or distribute a controlled substance—

(1) intending that it be unlawfully imported into the United States; or

(2) knowing that it will be unlawfully imported into the United States.

Lawful distribution of controlled substances.

(e) Subsections (a), (b), and (c) do not apply to a common or contract carrier, or an employee thereof, who possesses or distributes a controlled substance in the lawful and usual course of the carrier's business or to a public vessel of the United States, or any person on board such a vessel who possesses or distributes a controlled substance in the lawful course of his duties, if the controlled substance is a part of the cargo entered in the vessel's manifest and is intended to be lawfully imported into the country of destination for scientific, medical, or other legitimate purposes. It shall not be necessary for the United States to negative the exception set forth in this subsection in any complaint, information, indictment, or other pleading or in any trial or other proceeding. The burden of going forward with the evidence with respect to this exception is upon the person claiming its benefit.

Violations.

(f) Any person who violates this section shall be tried in the United States district court at the point of entry where that person enters the United States, or in the United States District Court for the District of Columbia.

Penalties.
21 USC 960.

(g)(1) Any person who commits an offense defined in subsection (a), (b), (c) or (d) of this section shall be punished in accordance with the penalties set forth in section 1010 of the Comprehensive Act.

(2) Notwithstanding paragraph (1) of this subsection, any person convicted of an offense under this Act shall be punished in accordance with the penalties set forth in section 1012 of the Comprehensive

21 USC 962.

Act if such offense is a second or subsequent offense as defined in section 1012(b) of that Act.

(h) This section is intended to reach acts of possession, manufacture, or distribution committed outside the territorial jurisdiction of the United States.

Definitions.
21 USC 955b.

SEC. 2. As used in this Act—

(a) "Customs waters" means those waters as defined in section 401(j) of the Tariff Act of 1930 (19 U.S.C. 1401(j)).

(b) "High seas" means all waters beyond the territorial seas of the United States and beyond the territorial seas of any foreign nation.

(c) "Vessel of the United States" means any vessel documented under the laws of the United States, or numbered as provided by the Federal Boat Safety Act of 1971, as amended, or owned in whole or in part by the United States or a citizen of the United States, or a corporation created under the laws of the United States, or any State, Territory, District, Commonwealth, or possession thereof, unless the vessel has been granted nationality by a foreign nation in accordance with article 5 of the Convention on the High Seas, 1958.

46 USC 1451 note.

13 UST 2315.

(d) "Vessel subject to the jurisdiction of the United States" includes a vessel without nationality or a vessel assimilated to a vessel without nationality, in accordance with paragraph (2) of article 6 of the Convention on the High Seas, 1958.

(e) "Comprehensive Act" means the Comprehensive Drug Abuse Control and Prevention Act of 1970 (21 U.S.C. 801-966). All terms used in this Act that are defined in the Comprehensive Act have the meanings assigned to them by that Act.

Offense.
21 USC 955c.

SEC. 3. Any person who attempts or conspires to commit any offense defined in this Act is punishable by imprisonment or fine or both which may not exceed the maximum punishment prescribed for the offense, the commission of which was the object of the attempt or conspiracy.

21 USC 955d.
21 USC 881.

SEC. 4. Any property described in section 511(a) of the Comprehensive Act that is used or intended for use to commit, or to facilitate the commission of, an offense under this Act shall be subject to seizure and forfeiture in the same manner as similar property seized or forfeited under section 511 of the Comprehensive Act.

Approved September 15, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-323 (Comm. on Merchant Marine and Fisheries).
SENATE REPORT No. 96-855 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD:
Vol. 125 (1979): July 23, considered and passed House.
Vol. 126 (1980): July 24, considered and passed Senate, amended.
July 31, House concurred in certain Senate amendments, in others with amendments.
Sept. 3, Senate concurred in House amendments.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:
Vol. 16, No. 38 (1980): Sept. 15, Presidential statement.

Public Law 96-351
96th Congress

An Act

To authorize the enlistment of citizens of the Northern Mariana Islands in the Armed Forces of the United States of America.

Sept. 15, 1980
[H.R. 4627]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding the provisions of sections 3253 and 8253 of title 10, United States Code, and in accordance with a Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America (approved on March 24, 1976, by Public Law 94-241), a citizen of the Northern Mariana Islands who indicates in writing to a commissioned officer of the Armed Forces of the United States of America an intent to become a citizen, and not a national, of the United States upon full implementation of such Covenant, and who is otherwise qualified for military service under applicable laws and regulations, may enlist in the Armed Forces of the United States of America.

Northern Mariana Islands. Enlistment of citizens in U.S. Armed Forces. 10 USC 3253 note.

SEC. 2. This Act shall expire upon the establishment of the Commonwealth of the Northern Mariana Islands.

Expiration date. 10 USC 3253 note.

Approved September 15, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-468 (Comm. on Armed Services).
SENATE REPORT No. 96-851 (Comm. on Armed Services).
CONGRESSIONAL RECORD:
Vol. 125 (1979): Oct. 15, considered and passed House.
Vol. 126 (1980): July 25, considered and passed Senate, amended.
Aug. 28, House concurred in Senate amendments.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:
Vol. 16, No. 38 (1980): Sept. 15, Presidential statement.

Public Law 96-352
96th Congress

Joint Resolution

Sept. 17, 1980
[H.J. Res. 607]

Making an urgent supplemental appropriation for the Veterans Administration for the fiscal year ending September 30, 1980.

Veterans Administration, Census Bureau, supplemental appropriation.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sum is appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1980, namely:

VETERANS ADMINISTRATION

READJUSTMENT BENEFITS

For an additional amount for "Readjustment benefits", $40,000,000, to remain available until expended.

DEPARTMENT OF COMMERCE

BUREAU OF THE CENSUS

PERIODIC CENSUSES AND PROGRAMS

For an additional amount for "Periodic censuses and programs", $27,000,000, to remain available until expended.

Approved September 17, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1311 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Sept. 15, considered and passed House.
Sept. 16, considered and passed Senate, amended; House concurred in Senate amendment.

Public Law 96-353
96th Congress

Joint Resolution

To authorize and request the President to issue a proclamation designating September 18, 1980, as "Constantino Brumidi Day".

Sept. 19, 1980
[H.J. Res. 594]

Whereas Constantino Brumidi, born in Rome, Italy, on July 26, 1805, landed at New York Harbor on September 18, 1852, as a political exile, making his flight from Italy to the United States because of his love for liberty; and

Whereas Brumidi's love for his adopted country led him to seek citizenship two years after his arrival; and

Whereas the artist's love for liberty joined his love for art and his love of country as he spent the last twenty-five years of his life embellishing the United States Capitol, including the corridors of the Senate wing, the formal offices of the President and the Vice President, the Senate reception room, the present House and Senate Appropriations Committee rooms, and the rotunda; and

Whereas in 1877, at the age of seventy-two, Brumidi began his last work, the fresco frieze encircling the top of the rotunda, and fell from a slipped scaffolding three years later while attempting to complete part of the work, and though not injured, suffered a shock so great that he was never able to return to work; and

Whereas Brumidi died as a result of this experience three months later in February 1880; and

Whereas the Congress recognizes the artist's devotion and talent which earned him the nickname of the "Michelangelo of the Capitol of the United States"; and

Whereas the year 1980 marks the one hundred and seventy-fifth anniversary of the birth, and the one hundredth anniversary of the death of Constantino Brumidi: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue a proclamation designating September 18, 1980, as "Constantino Brumidi Day" and calling upon the people of the United States, State and local government agencies, and interested organizations to observe that week with appropriate ceremonies, activities, and programs.

Constantino Brumidi Day. Designation authorization.

Approved September 19, 1980.

LEGISLATIVE HISTORY:

CONGRESSIONAL RECORD, Vol. 126 (1980):
Sept. 3, considered and passed House.
Sept. 17, considered and passed Senate, in lieu of S.J. Res. 197.

Public Law 96-354
96th Congress

An Act

Sept. 19, 1980
[S. 299]

To amend title 5, United States Code, to improve Federal rulemaking by creating procedures to analyze the availability of more flexible regulatory approaches for small entities, and for other purposes.

Regulatory Flexibility Act.
5 USC 601 note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Regulatory Flexibility Act".

FINDINGS AND PURPOSES

5 USC 601 note.

SEC. 2. (a) The Congress finds and declares that—

(1) when adopting regulations to protect the health, safety and economic welfare of the Nation, Federal agencies should seek to achieve statutory goals as effectively and efficiently as possible without imposing unnecessary burdens on the public;

(2) laws and regulations designed for application to large scale entities have been applied uniformly to small businesses, small organizations, and small governmental jurisdictions even though the problems that gave rise to government action may not have been caused by those smaller entities;

(3) uniform Federal regulatory and reporting requirements have in numerous instances imposed unnecessary and disproportionately burdensome demands including legal, accounting and consulting costs upon small businesses, small organizations, and small governmental jurisdictions with limited resources;

(4) the failure to recognize differences in the scale and resources of regulated entities has in numerous instances adversely affected competition in the marketplace, discouraged innovation and restricted improvements in productivity;

(5) unnecessary regulations create entry barriers in many industries and discourage potential entrepreneurs from introducing beneficial products and processes;

(6) the practice of treating all regulated businesses, organizations, and governmental jurisdictions as equivalent may lead to inefficient use of regulatory agency resources, enforcement problems, and, in some cases, to actions inconsistent with the legislative intent of health, safety, environmental and economic welfare legislation;

(7) alternative regulatory approaches which do not conflict with the stated objectives of applicable statutes may be available which minimize the significant economic impact of rules on small businesses, small organizations, and small governmental jurisdictions;

(8) the process by which Federal regulations are developed and adopted should be reformed to require agencies to solicit the ideas and comments of small businesses, small organizations, and small governmental jurisdictions to examine the impact of proposed and existing rules on such entities, and to review the continued need for existing rules.

(b) It is the purpose of this Act to establish as a principle of regulatory issuance that agencies shall endeavor, consistent with the objectives of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the businesses, organizations, and governmental jurisdictions subject to regulation. To achieve this principle, agencies are required to solicit and consider flexible regulatory proposals and to explain the rationale for their actions to assure that such proposals are given serious consideration.

ANALYSIS OF REGULATORY FUNCTIONS

SEC. 3. (a) Title 5, United States Code, is amended by adding immediately after chapter 5 the following new chapter:

"CHAPTER 6—THE ANALYSIS OF REGULATORY FUNCTIONS

"Sec. 601. Definitions.
"Sec. 602. Regulatory agenda.
"Sec. 603. Initial regulatory flexibility analysis.
"Sec. 604. Final regulatory flexibility analysis.
"Sec. 605. Avoidance of duplicative or unnecessary analyses.
"Sec. 606. Effect on other law.
"Sec. 607. Preparation of analyses.
"Sec. 608. Procedure for waiver or delay of completion.
"Sec. 609. Procedures for gathering comments.
"Sec. 610. Periodic review of rules.
"Sec. 611. Judicial review.
"Sec. 612. Reports and intervention rights.

"§ 601. Definitions

5 USC 601.

"For purposes of this chapter—

"(1) the term 'agency' means an agency as defined in section 551(1) of this title; 5 USC 551.

"(2) the term 'rule' means any rule for which the agency publishes a general notice of proposed rulemaking pursuant to section 553(b) of this title, or any other law, including any rule of general applicability governing Federal grants to State and local governments for which the agency provides an opportunity for notice and public comment, except that the term 'rule' does not include a rule of particular applicability relating to rates, wages, corporate or financial structures or reorganizations thereof, prices, facilities, appliances, services, or allowances therefor or to valuations, costs or accounting, or practices relating to such rates, wages, structures, prices, appliances, services, or allowances; 5 USC 553.

"(3) the term 'small business' has the same meaning as the term 'small business concern' under section 3 of the Small Business Act, unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the Federal Register; 15 USC 632.

"(4) the term 'small organization' means any not-for-profit enterprise which is independently owned and operated and is not dominant in its field, unless an agency establishes, after opportunity for public comment, one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the Federal Register;

"(5) the term 'small governmental jurisdiction' means governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand, unless an agency establishes, after opportunity for public comment, one or more definitions of such term which are appropriate to the activities of the agency and which are based on such factors as location in rural or sparsely populated areas or limited revenues due to the population of such jurisdiction, and publishes such definition(s) in the Federal Register; and

"(6) the term 'small entity' shall have the same meaning as the terms 'small business', 'small organization' and 'small governmental jurisdiction' defined in paragraphs (3), (4) and (5) of this section.

5 USC 602.

"§ 602. Regulatory agenda

Publication in Federal Register.

"(a) During the months of October and April of each year, each agency shall publish in the Federal Register a regulatory flexibility agenda which shall contain—

"(1) a brief description of the subject area of any rule which the agency expects to propose or promulgate which is likely to have a significant economic impact on a substantial number of small entities;

"(2) a summary of the nature of any such rule under consideration for each subject area listed in the agenda pursuant to paragraph (1), the objectives and legal basis for the issuance of the rule, and an approximate schedule for completing action on any rule for which the agency has issued a general notice of proposed rulemaking, and

"(3) the name and telephone number of an agency official knowledgeable concerning the items listed in paragraph (1).

Transmittal to SBA.

"(b) Each regulatory flexibility agenda shall be transmitted to the Chief Counsel for Advocacy of the Small Business Administration for comment, if any.

Notice.

"(c) Each agency shall endeavor to provide notice of each regulatory flexibility agenda to small entities or their representatives through direct notification or publication of the agenda in publications likely to be obtained by such small entities and shall invite comments upon each subject area on the agenda.

"(d) Nothing in this section precludes an agency from considering or acting on any matter not included in a regulatory flexibility agenda, or requires an agency to consider or act on any matter listed in such agenda.

5 USC 603.

"§ 603. Initial regulatory flexibility analysis

Public comment. 5 USC 553.

"(a) Whenever an agency is required by section 553 of this title, or any other law, to publish general notice of proposed rulemaking for any proposed rule, the agency shall prepare and make available for public comment an initial regulatory flexibility analysis. Such analysis shall describe the impact of the proposed rule on small entities. The initial regulatory flexibility analysis or a summary shall be published in the Federal Register at the time of the publication of general notice of proposed rulemaking for the rule. The agency shall transmit a copy of the initial regulatory flexibility analysis to the Chief Counsel for Advocacy of the Small Business Administration.

Publication in Federal Register.

Transmittal to SBA.

"(b) Each initial regulatory flexibility analysis required under this section shall contain—

"(1) a description of the reasons why action by the agency is being considered;

"(2) a succinct statement of the objectives of, and legal basis for, the proposed rule;

"(3) a description of and, where feasible, an estimate of the number of small entities to which the proposed rule will apply;

"(4) a description of the projected reporting, recordkeeping and other compliance requirements of the proposed rule, including an estimate of the classes of small entities which will be subject to the requirement and the type of professional skills necessary for preparation of the report or record;

"(5) an identification, to the extent practicable, of all relevant Federal rules which may duplicate, overlap or conflict with the proposed rule.

"(c) Each initial regulatory flexibility analysis shall also contain a description of any significant alternatives to the proposed rule which accomplish the stated objectives of applicable statutes and which minimize any significant economic impact of the proposed rule on small entities. Consistent with the stated objectives of applicable statutes, the analysis shall discuss significant alternatives such as—

"(1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities;

"(2) the clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities;

"(3) the use of performance rather than design standards; and

"(4) an exemption from coverage of the rule, or any part thereof, for such small entities.

5 USC 604.

"§ 604. Final regulatory flexibility analysis

"(a) When an agency promulgates a final rule under section 553 of this title, after being required by that section or any other law to publish a general notice of proposed rulemaking, the agency shall prepare a final regulatory flexibility analysis. Each final regulatory flexibility analysis shall contain— 5 USC 553.

"(1) a succinct statement of the need for, and the objectives of, the rule;

"(2) a summary of the issues raised by the public comments in response to the initial regulatory flexibility analysis, a summary of the assessment of the agency of such issues, and a statement of any changes made in the proposed rule as a result of such comments; and

"(3) a description of each of the significant alternatives to the rule consistent with the stated objectives of applicable statutes and designed to minimize any significant economic impact of the rule on small entities which was considered by the agency, and a statement of the reasons why each one of such alternatives was rejected.

"(b) The agency shall make copies of the final regulatory flexibility analysis available to members of the public and shall publish in the Federal Register at the time of publication of the final rule under section 553 of this title a statement describing how the public may obtain such copies. Public availability; publication in Federal Register. 5 USC 553.

5 USC 605.

"§ 605. Avoidance of duplicative or unnecessary analyses

"(a) Any Federal agency may perform the analyses required by sections 602, 603, and 604 of this title in conjunction with or as a part of any other agenda or analysis required by any other law if such other analysis satisfies the provisions of such sections.

"(b) Sections 603 and 604 of this title shall not apply to any proposed or final rule if the head of the agency certifies that the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. If the head of the agency makes a certification under the preceding sentence, the agency shall publish such certification in the Federal Register, at the time of publication of general notice of proposed rulemaking for the rule or at the time of publication of the final rule, along with a succinct statement explaining the reasons for such certification, and provide such certification and statement to the Chief Counsel for Advocacy of the Small Business Administration.

Certification, publication in Federal Register and transmittal to SBA.

"(c) In order to avoid duplicative action, an agency may consider a series of closely related rules as one rule for the purposes of sections 602, 603, 604 and 610 of this title.

5 USC 606.

"§ 606. Effect on other law

"The requirements of sections 603 and 604 of this title do not alter in any manner standards otherwise applicable by law to agency action.

5 USC 607.

"§ 607. Preparation of analyses

"In complying with the provisions of sections 603 and 604 of this title, an agency may provide either a quantifiable or numerical description of the effects of a proposed rule or alternatives to the proposed rule, or more general descriptive statements if quantification is not practicable or reliable.

5 USC 608.

"§ 608. Procedure for waiver or delay of completion

"(a) An agency head may waive or delay the completion of some or all of the requirements of section 603 of this title by publishing in the Federal Register, not later than the date of publication of the final rule, a written finding, with reasons therefor, that the final rule is being promulgated in response to an emergency that makes compliance or timely compliance with the provisions of section 603 of this title impracticable.

Publication in Federal Register.

"(b) Except as provided in section 605(b), an agency head may not waive the requirements of section 604 of this title. An agency head may delay the completion of the requirements of section 604 of this title for a period of not more than one hundred and eighty days after the date of publication in the Federal Register of a final rule by publishing in the Federal Register, not later than such date of publication, a written finding, with reasons therefor, that the final rule is being promulgated in response to an emergency that makes timely compliance with the provisions of section 604 of this title impracticable. If the agency has not prepared a final regulatory analysis pursuant to section 604 of this title within one hundred and eighty days from the date of publication of the final rule, such rule shall lapse and have no effect. Such rule shall not be repromulgated until a final regulatory flexibility analysis has been completed by the agency.

Publication in Federal Register.

5 USC 609.

"§ 609. Procedures for gathering comments

"When any rule is promulgated which will have a significant economic impact on a substantial number of small entities, the head of the agency promulgating the rule or the official of the agency with statutory responsibility for the promulgation of the rule shall assure that small entities have been given an opportunity to participate in the rulemaking for the rule through techniques such as—

"(1) the inclusion in an advanced notice of proposed rulemaking, if issued, of a statement that the proposed rule may have a significant economic effect on a substantial number of small entities;

"(2) the publication of general notice of proposed rulemaking in publications likely to be obtained by small entities;

"(3) the direct notification of interested small entities;

"(4) the conduct of open conferences or public hearings concerning the rule for small entities; and

"(5) the adoption or modification of agency procedural rules to reduce the cost or complexity of participation in the rulemaking by small entities.

5 USC 610.

"§ 610. Periodic review of rules

Plan, publication in Federal Register.

"(a) Within one hundred and eighty days after the effective date of this chapter, each agency shall publish in the Federal Register a plan for the periodic review of the rules issued by the agency which have or will have a significant economic impact upon a substantial number of small entities. Such plan may be amended by the agency at any time by publishing the revision in the Federal Register. The purpose of the review shall be to determine whether such rules should be continued without change, or should be amended or rescinded, consistent with the stated objectives of applicable statutes, to minimize any significant economic impact of the rules upon a substantial number of such small entities. The plan shall provide for the review of all such agency rules existing on the effective date of this chapter within ten years of that date and for the review of such rules adopted after the effective date of this chapter within ten years of the publication of such rules as the final rule. If the head of the agency determines that completion of the review of existing rules is not feasible by the established date, he shall so certify in a statement published in the Federal Register and may extend the completion date by one year at a time for a total of not more than five years.

Consideration factors.

"(b) In reviewing rules to minimize any significant economic impact of the rule on a substantial number of small entities in a manner consistent with the stated objectives of applicable statutes, the agency shall consider the following factors—

"(1) the continued need for the rule;

"(2) the nature of complaints or comments received concerning the rule from the public;

"(3) the complexity of the rule;

"(4) the extent to which the rule overlaps, duplicates or conflicts with other Federal rules, and, to the extent feasible, with State and local governmental rules; and

"(5) the length of time since the rule has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the rule.

Publication in Federal Register.

"(c) Each year, each agency shall publish in the Federal Register a list of the rules which have a significant economic impact on a substantial number of small entities, which are to be reviewed pursuant to this section during the succeeding twelve months. The list shall include a brief description of each rule and the need for and legal basis of such rule and shall invite public comment upon the rule.

5 USC 611.

"§ 611. Judicial review

"(a) Except as otherwise provided in subsection (b), any determination by an agency concerning the applicability of any of the provi-

sions of this chapter to any action of the agency shall not be subject to judicial review.

"(b) Any regulatory flexibility analysis prepared under sections 603 and 604 of this title and the compliance or noncompliance of the agency with the provisions of this chapter shall not be subject to judicial review. When an action for judicial review of a rule is instituted, any regulatory flexibility analysis for such rule shall constitute part of the whole record of agency action in connection with the review.

"(c) Nothing in this section bars judicial review of any other impact statement or similar analysis required by any other law if judicial review of such statement or analysis is otherwise provided by law.

Submittal to President and congressional committees. 5 USC 612.

"§ 612. Reports and intervention rights

"(a) The Chief Counsel for Advocacy of the Small Business Administration shall monitor agency compliance with this chapter and shall report at least annually thereon to the President and to the Committees on the Judiciary of the Senate and House of Representatives, the Select Committee on Small Business of the Senate, and the Committee on Small Business of the House of Representatives.

"(b) The Chief Counsel for Advocacy of the Small Business Administration is authorized to appear as amicus curiae in any action brought in a court of the United States to review a rule. In any such action, the Chief Counsel is authorized to present his views with respect to the effect of the rule on small entities.

"(c) A court of the United States shall grant the application of the Chief Counsel for Advocacy of the Small Business Administration to appear in any such action for the purposes described in subsection (b).".

EFFECTIVE DATE

5 USC 601 note.

SEC. 4. The provisions of this Act shall take effect January 1, 1981, except that the requirements of sections 603 and 604 of title 5, United States Code (as added by section 3 of this Act) shall apply only to rules for which a notice of proposed rulemaking is issued on or after January 1, 1981.

Approved September 19, 1980.

LEGISLATIVE HISTORY:

SENATE REPORT No. 96-878 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Aug. 6, considered and passed Senate.
Sept. 8, 9, considered and passed House.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 16, No. 38:
Sept. 19, Presidential statement.

Public Law 96-355
96th Congress

An Act

Sept. 24, 1980
[S. 670]

To provide for the establishment and coordination of rural development policy, to extend until September 30, 1981, the authorizations for appropriations for title V of the Rural Development Act of 1972, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Rural Development Policy Act of 1980.

SHORT TITLE

7 USC 2201 note.

SECTION 1. This Act may be cited as the "Rural Development Policy Act of 1980".

RURAL DEVELOPMENT POLICY

7 USC 1921 note.

SEC. 2. The Rural Development Act of 1972 (Public Law 92-419; 86 Stat. 657) is amended by adding at the end thereof a new section as follows:

7 USC 2204b.

"SEC. 607. RURAL DEVELOPMENT POLICY.—(a) The Secretary of Agriculture shall provide leadership within the executive branch for, and shall assume responsibility for coordinating, a nationwide rural development program using the services of executive branch departments and agencies, including, but not limited to, the agencies, bureaus, offices, and services of the Department of Agriculture, in coordination with rural development programs of State and local governments.

Review.

"(b) POLICY DEVELOPMENT.—(1) The Secretary shall conduct a systematic review of Federal programs affecting rural areas to (A) determine whether such areas are benefiting from such programs in an equitable proportion to the benefits received by urban areas and (B) identify any factors that may restrict accessibility to such programs in rural areas or limit participation in such programs.

Information gathering.
5 USC 552a note.

"(2) Subject to the Privacy Act of 1974, the Secretary may secure directly from any Federal department or agency information necessary to carry out the Secretary's duties under this section. Upon request of the Secretary under this paragraph, the head of any such Federal department or agency shall furnish such information to the Secretary.

Assessment process.

"(3) The Secretary shall develop a process through which multistate, State, substate, and local rural development needs, goals, objectives, plans, and recommendations can be received and assessed on a continuing basis. Such process may include the use of those rural development experts, advisors, and consultants that the Secretary deems appropriate, as well as the establishment of temporary advisory committees under the terms of the Federal Advisory Committee Act.

5 USC app.

Cooperation with Federal agencies.

"(4) The Secretary may undertake cooperative efforts with other Federal departments and agencies to improve the coordination and effectiveness of Federal programs, services, and actions affecting rural areas. The Secretary may request the heads of other Federal

departments and agencies to participate in any working groups that the Secretary deems necessary to carry out the purposes of this section.

Hearings and comments.

"(5) The Secretary may hold public hearings and receive comments on any matter that the Secretary determines may have a significant impact on rural development or the economic development of rural communities.

"(c) RURAL DEVELOPMENT STRATEGY.—(1) The Secretary shall prepare a comprehensive rural development strategy based on the needs, goals, objectives, plans, and recommendations of local communities, substate areas, States, and multistate regions, which is designed to—

"(A) maximize the effectiveness, increase the responsiveness, and improve the delivery of Federal programs to rural areas;

"(B) increase the coordination of Federal programs with the development needs, objectives, and resources of local communities, substate areas, States, and multistate regions; and

"(C) achieve the most effective combinations of Federal, State, and local resources to meet the needs of rural areas for orderly growth and development.

"(2) The rural development strategy shall take into account the need to—

"(A) improve the economic well-being of all rural residents and alleviate the problems of low income, elderly, minority, and otherwise disadvantaged rural residents;

"(B) improve the business and employment opportunities, occupational training and employment services, health care services, educational opportunities, energy utilization and availability, housing, transportation, community services, community facilities, water supplies, sewage and solid waste management systems, credit availability, and accessibility to and delivery of private and public financial resources in the maintenance and creation of jobs in rural areas;

"(C) improve State and local government management capabilities, institutions, and programs related to rural development and expand educational and training opportunities for State and local officials, particularly in small rural communities;

"(D) strengthen the family farm system; and

"(E) maintain and protect the environment and natural resources of rural areas.

"(3) The rural development strategy developed under this subsection shall be for the fiscal year ending September 30, 1982, and updated for each fiscal year thereafter.

Hearings and suggestions.

"(4) The Secretary shall hold public hearings and receive such suggestions and recommendations as the Secretary deems appropriate during the preparation of the rural development strategy and the annual updates to the strategy.

Updates, transmittal to congressional committees.

"(5) The rural development strategy and the annual updates to the strategy shall be transmitted to the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry by January 31 of the calendar year immediately preceding the beginning of the appropriate fiscal year.

Budget recommendations and projections.

"(6) The rural development strategy and each annual update of the strategy shall contain an analysis of the budget recommendations of the President for the fiscal year following the transmittal of the strategy or update of the strategy and of all the available budget projections of the President for subsequent fiscal years, and projections regarding the budget that are relevant or essential to the rural development policy and the rural development strategy developed

under this subsection. Each annual update shall also contain a detailed statement of the findings and conclusions of the Secretary regarding the implementation during the preceding fiscal year of the rural development strategy, including any revisions of the strategy, any recommended legislation to improve the rural development effort of the Federal Government, and an evaluation of and recommendations regarding the rural development information system required under section 306(a)(12) of the Consolidated Farm and Rural Development Act. 7 USC 1926.

"(d) STRATEGY IMPLEMENTATION.—The Secretary shall ensure the effective implementation of the rural development strategy and maximize coordination of Federal programs affecting rural areas through a systematic effort to—

"(1) improve communication and encourage cooperation among Federal departments and agencies in the administration of rural development programs;

"(2) eliminate conflicts, duplication, and gaps in program coverage, and resolve contradictions and inconsistencies in the objectives, administration, and effects of rural development programs;

"(3) facilitate the sharing or common location of field offices of Federal agencies administering similar or complementary programs and unification of delivery systems, where feasible, to maximize convenience and accessibility of such agencies and programs to rural residents;

"(4) facilitate and expedite joint funding of rural projects through Federal programs;

"(5) correct administrative problems in Federal programs that delay or hinder the effective delivery of services, assistance, or benefits to rural areas; and

"(6) simplify, standardize, and reduce the complexity of applications, reports, and other forms required under Federal rural development programs.".

UNDER SECRETARY OF AGRICULTURE FOR SMALL COMMUNITY AND RURAL DEVELOPMENT

SEC. 3. (a) There is hereby established in the Department of Agriculture the position of Under Secretary of Agriculture for Small Community and Rural Development to be appointed by the President, by and with the advice and consent of the Senate. The Under Secretary of Agriculture for Small Community and Rural Development may exercise such functions and perform such duties related to small community and rural development, and shall perform such other duties, as may be required by law or prescribed by the Secretary of Agriculture. Appointment. 7 USC 2211b.

(b) Section 5314 of title 5, United States Code, is amended by adding at the end thereof a new paragraph as follows:

"Under Secretary of Agriculture for Small Community and Rural Development.".

RURAL DEVELOPMENT ACT REAUTHORIZATION AND AMENDMENTS

SEC. 4. The Rural Development Act of 1972 is amended by—

(1) in section 503(a) (7 U.S.C. 2663(a)), striking out "three" and "1979" and inserting in lieu thereof "five" and "1981", respectively;

(2) in section 503(c) (7 U.S.C. 2663(c)), striking out "and September 30, 1979" and inserting in lieu thereof "September 30, 1979, September 30, 1980, and September 30, 1981";

(3) in section 503(f) (7 U.S.C. 2663(f)), inserting immediately after the first sentence a new sentence as follows: "In those States that contain more than one institution or university accepting the benefits of the Morrill Act of 1862 or 1890 (or both), including Tuskegee Institute, such annual plan and budget shall be jointly developed by mutual agreement of the chief adminstrative officers of all such institutions or universities.";

7 USC 301 note, 321 note.

(4) in section 507(b) (7 U.S.C. 2667(b)), inserting ", Guam, the Commonwealth of the Northern Mariana Islands, American Samoa, the Virgin Islands of the United States," after "several States"; and

(5) in section 603(c), repealing paragraph (2); in paragraph (1), striking out "(1)" after the subsection designation; and redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively.

7 USC 2204a.

REVISED STATUTES AMENDMENTS

SEC. 5. Section 526(b) of the Revised Statutes (7 U.S.C. 2204(b)) is amended by—

(1) striking out the first and second sentences thereof;

(2) in the third sentence striking out "and" before "rural industrialization" and inserting before the period at the end thereof the following: ", and technology appropriate to small- and moderate-sized family farming operations, and any other problem that the Secretary may determine has an effect upon the economic development or the quality of life in rural areas".

ELIMINATION OF REPORTS

SEC. 6. Section 901 of the Agricultural Act of 1970 (Public Law 91-524, 84 Stat. 1303; 42 U.S.C. 3122) is amended by striking out the last sentence of subsection (b) and repealing subsections (c) through (f).

84 Stat. 1383.

TECHNICAL ASSISTANCE AND INFORMATION SYSTEM

SEC. 7. Section 306(a) of the Consolidated Farm and Rural Development Act (Public Law 87-128, 75 Stat. 307; 7 U.S.C. 1926(a)) is amended by—

(1) amending paragraph (11) to read as follows:

"(11) The Secretary may make grants, not to exceed $15,000,000 annually, to public bodies or such other agencies as the Secretary may select to provide rural development technical assistance, rural community leadership development, and community and areawide rural development planning.";

(2) redesignating paragraphs (12), (13), and (14) as paragraphs (13), (14), and (15), respectively; and

(3) inserting immediately after paragraph (11) a new paragraph (12) as follows:

"(12)(A) The Secretary shall, in cooperation with institutions eligible to receive funds under the Act of July 2, 1862 (12 Stat. 503-505, as amended; 7 U.S.C. 301-305, 307, and 308), or the Act of August 30, 1890 (26 Stat. 417-419, as amended; 7 U.S.C. 321-326 and 328), including the Tuskegee Institute and State,

7 USC 321-326a, 328.

substate, and regional planning bodies, establish a system for the dissemination of information and technical assistance on federally sponsored or funded programs. The system shall be for the use of institutions eligible to receive funds under the Act of July 2, 1862 (12 Stat. 503–505, as amended; 7 U.S.C. 301–305, 307, and 308), or the Act of August 30, 1890 (26 Stat. 417–419, as amended; 7 U.S.C. 321–326 and 328), including the Tuskegee Institute and State, substate, and regional planning bodies, and other persons concerned with rural development. 7 USC 321–326a, 328.

"(B) The informational system developed under this paragraph shall contain all pertinent information, including, but not limited to, information contained in the Federal Procurement Data System, Federal Assistance Program Retrieval System, Catalogue of Federal Domestic Assistance, Geographic Distribution of Federal Funds, United States Census, and Code of Federal Regulations.

"(C) The Secretary shall obtain from all other Federal departments and agencies comprehensive, relevant, and applicable information on programs under their jurisdiction that are operated in rural areas.

"(D) Of the sums authorized to be appropriated to carry out the provisions of this Act, not more than $1,000,000 per year may be expended to carry out the provisions of this paragraph.". Appropriation authorization.

LIMITATIONS

SEC. 8. No funds are authorized to be appropriated pursuant to sections 4 and 7 of this Act and the amendments made by those sections for the fiscal year ending September 30, 1980, in excess of such amounts as have been appropriated on or before the date of enactment of this Act for such fiscal year.

WEB RURAL WATER DEVELOPMENT PROJECT

SEC. 9. (a) There are authorized to be appropriated to the Secretary of the Interior for the fiscal year ending September 30, 1981, $1,900,000, which shall be used for initial planning and construction of a rural water treatment and distribution system in portions of, but not limited to, Walworth, Edmunds, Brown, Campbell, Potter, McPherson, Faulk, Hand, Spink, and Day Counties in South Dakota that will furnish water for domestic and other purposes, hereafter referred to in this section as "the WEB Rural Water Development Project", as generally proposed by the WEB Water Development Association, Incorporated, and as described in the special report by the Association of January 1980. Appropriation authorization.

(b) Effective October 1, 1981, there are authorized to be appropriated to the Secretary of the Interior for the further planning and construction of the WEB Rural Water Development Project $68,100,000, plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuations in development costs incurred after January 1, 1980, as indicated by the engineering cost indices applicable to the types of construction involved herein: *Provided*, That such authorization for appropriations shall not become effective until such time as legislation has been enacted deauthorizing the Oahe Unit, initially authorized by the Act of August 3, 1968 (Public Law 90-435; 82 Stat. 624): *Provided further*, That if such legislation has not been enacted by September 30, 1981, the authorization for appropriations provided for in this subsection shall terminate.

(c) Any funds appropriated under this section shall remain available until expended.

Transfer of funds.

(d) Any funds appropriated under this section shall be transferred by the Secretary of the Interior to the Secretary of Agriculture when such funds are appropriated. The Secretary of the Interior may enter into cooperative memoranda of understanding with the Secretary of Agriculture as may be required to provide services to carry out the purposes of this section.

(e) The Secretary of Agriculture shall use any funds transferred under subsection (d) for necessary administrative expenses, and to provide financial assistance to plan and develop the WEB Rural Water Development Project under the terms and conditions of the Consolidated Farm and Rural Development Act and the rules and regulations promulgated by the Department of Agriculture under that Act, except to the extent such Act or rules or regulations promulgated thereunder are inconsistent with the provisions of this section. Such funds shall be made available in a combination of grants and loans that will provide grants for not less than 75 per centum of eligible development costs and such loans as may be necessary to plan and construct the WEB Rural Water Development Project.

7 USC 1921 note.

Grants and loans.

EFFECTIVE DATE

SEC. 10. The provisions of this Act shall become effective October 1, 1980.

7 USC 2204b note.

Approved September 24, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-259 accompanying H.R. 3580 (Comm. on Agriculture).
SENATE REPORT No. 96-187 (Comm. on Agriculture, Nutrition, and Forestry).
CONGRESSIONAL RECORD:
Vol. 125 (1979): June 14, considered and passed Senate.
Vol. 126 (1980): Sept. 15, H.R. 3580 considered and passed House; passage vacated and S. 670, amended, passed in lieu.
Sept. 16, Senate concurred in House amendments.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:
Vol. 16, No. 39 (1980): Sept. 24, Presidential statement.

Public Law 96-356
96th Congress

An Act

To amend the Act of December 20, 1944, as amended.

Sept. 24, 1980
[S. 1625]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act of December 20, 1944 (58 Stat. 836; 12 U.S.C. 1150), is amended by adding at the end thereof a new section 4 as follows:

Farm loans.

"SEC. 4. Notwithstanding any other provision of law, no persons who have received or have owing to them, prior to the date of enactment of this section, payments at rates announced by the Secretary of Agriculture for self-hauling of hay or other roughages under the hay transportation assistance program shall be liable for, or be obligated to refund, any amount that is determined by the Secretary to be in excess of the payment computed in accordance with the maximum rate provided by section 8 of the Farmer-to-Consumer Direct Marketing Act of 1976: *Provided,* That the Secretary determines that such persons have otherwise complied with the terms and conditions of, and are otherwise entitled to payments under, the hay transportation assistance program. Any payments made pursuant to this Act shall be made out of funds appropriated or otherwise available on the date of enactment of this Act for disaster relief.".

Hay transportation assistance program, payments.
12 USC 1150c.

42 USC 5145 note.

Approved September 24, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1120 accompanying H.R. 5208 (Comm. on Agriculture).
SENATE REPORT No. 96-763 (Comm. on Agriculture, Nutrition and Forestry).
CONGRESSIONAL RECORD, Vol. 126 (1980):
May 22, considered and passed Senate.
Aug. 19, H.R. 5208 considered and passed House; passage vacated and S. 1625, amended, passed in lieu.
Sept. 8, Senate concurred in House amendment.

Public Law 96-357
96th Congress

An Act

Sept. 24, 1980
[H.R. 5766]

To authorize additional Reserve Officers' Training Corps scholarships for the Army, to authorize the Secretary of the Army to provide that cadets awarded such scholarships may serve their obligated period of service in the Army Reserve or Army National Guard of the United States, to authorize the Secretary concerned to require an individual furnished post-secondary education by an Armed Force to reimburse the United States for the cost of such education in the event such individual fails to comply with such individual's active-duty obligation, to provide that certain full-time training duty of members of the National Guard shall be considered as active duty for training in Federal service for certain purposes, and for other purposes.

Reserve Officers' Training Corps scholarships.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 2107(a) of title 10, United States Code, relating to financial assistance for specially selected members of the Reserve Officers' Training Corps, is amended by striking out the period at the end of the first sentence and all of the second sentence and inserting in lieu thereof a comma and the following: "except that the age of any such member who has served on active duty in the armed forces may exceed such age limitation on such date by a period equal to the period such member served on active duty, but only if such member will be under 29 years of age on such date.".

(b) Section 2107 of such title is further amended—

(1) by inserting "and" at the end of clause (4) of subsection (b);

(2) by striking out clauses (5) and (6) of subsection (b) and inserting in lieu thereof the following:

"(5) agree in writing that, at the discretion of the Secretary of the military department concerned, he will either—

"(A)(i) accept an appointment, if offered, as a commissioned officer in the Army, Navy, Air Force, or Marine Corps, as the case may be, and that, if he is commissioned as a regular officer and his regular commission is terminated before the sixth anniversary of his date of rank, he will accept an appointment, if offered, in the reserve component of that armed force and not resign before that anniversary; and

"(ii) serve on active duty for four or more years; or

"(B)(i) accept an appointment, if offered, as a commissioned officer in the Army, Navy, Air Force, or Marine Corps, as the case may be; and

"(ii) serve in a reserve component of that armed force until the eighth anniversary of the receipt of such appointment, unless otherwise extended by subsection (d) of section 2108 of this title, under such terms and conditions as shall be prescribed by the Secretary of the military department concerned.

10 USC 2108.

The performance of service under clause (5)(B) may include periods of active duty, active duty for training, and other service in an active or inactive status in the reserve component in which appointed."; and

(3) by striking out "6,500" the first place it appears in subsection (h) and inserting in lieu thereof "12,000".

(c)(1) Chapter 103 of such title, relating to Senior Reserve Officers' Training Corps, is amended by inserting after section 2107 the following new section:

10 USC 2107a.

"§ 2107a. Financial assistance program for specially selected members: military junior colleges

"(a)(1) The Secretary of the Army may appoint as a cadet in the Army Reserve or Army National Guard of the United States any eligible member of the program who is a student at a military junior college and who will be under 25 years of age on June 30 of the calendar year in which he is eligible under this section for appointment as a second lieutenant in the Army, except that the age of any such member who has served on active duty in the armed forces may exceed such age limitation on such date by a period equal to the period such member served on active duty, but only if such member will be under 29 years of age on such date.

"(2) To be considered a military junior college for the purposes of this section, a school must be a civilian postsecondary educational institution essentially military in nature that does not confer baccalaureate degrees and that meets such other requirements as the Secretary of the Army may prescribe.

Appointment, eligibility.

"(b) To be eligible for appointment as a cadet under this section, a member of the program must—

"(1) be a citizen of the United States;

"(2) be specially selected for the financial assistance program under this section under procedures prescribed by the Secretary of the Army;

"(3) enlist in a reserve component of the Army for the period prescribed by the Secretary of the Army;

"(4) contract, with the consent of his parent or guardian if he is a minor, with the Secretary of the Army to serve for the period required by the program;

"(5) agree in writing that he will accept an appointment, if offered, as a commissioned officer in the Army Reserve or the Army National Guard of the United States; and

"(6) agree in writing that he will serve in such reserve component for not less than eight years.

Performance of duty under an agreement under this subsection shall be under such terms and conditions as the Secretary of the Army may prescribe and may include periods of active duty, active duty for training, and other service in an active or inactive status in the reserve component in which appointed.

Payment of expenses.

"(c) The Secretary of the Army shall provide for the payment of all expenses of the Department of the Army in administering the financial assistance program under this section, including the cost of tuition, fees, books, and laboratory expenses which are incurred by members of the program appointed as cadets under this section while such members are students at a military junior college.

"(d) Upon satisfactorily completing the academic and military requirements of the program, a cadet may be appointed as a reserve officer in the Army in the grade of second lieutenant, even though he is under 21 years of age.

Date of rank.

"(e) The date of rank of officers appointed under this section in May or June of any year is the date of graduation of cadets from the United States Military Academy in that year. The Secretary of the

Army shall establish the date of rank of all other officers appointed under this section.

"(f) A cadet who does not complete the course of instruction, or who completes the course but declines to accept a commission when offered, may be ordered to active duty by the Secretary of the Army to serve in his enlisted grade for such period of time as the Secretary prescribes but not for more than four years.

"(g) In computing length of service for any purpose, an officer appointed under this section may not be credited with service as a cadet or with concurrent enlisted service.

Number of appointments.

"(h)(1) The Secretary of the Army shall appoint not less than 10 cadets under this section each year at each military junior college at which there are not less than 10 members of the program eligible under subsection (b) for such an appointment. At any military college at which in any year there are fewer than 10 such members, the Secretary shall appoint each such member as a cadet under this section.

Additional appointments.

"(2) If the level of participation in the program at any military junior college meets criteria for such participation established by the Secretary of the Army by regulation, the Secretary shall appoint additional cadets under this section from among members of the program at such military junior college who are eligible under subsection (b) for such an appointment.

"(i) Cadets appointed under this section are in addition to the number appointed under section 2107 of this title.".

Ante, p. 1178.

(2) The table of sections at the beginning of chapter 103 of such title is amended by inserting after the item relating to section 2107 the following new item:

"2107a. Financial assistance program for specially selected members: military junior colleges.".

Obligated service, delay. 10 USC 2108.

(d) Section 2108(d) of such title, relating to advanced training after receiving a baccalaureate degree or completing preprofessional studies, is amended by striking out the second sentence and inserting in lieu thereof the following: "If a member of the program has been accepted for resident graduate or professional study, the Secretary of the military department concerned may delay the commencement of that member's obligated period of active duty, and any obligated period of active duty for training or other service in an active or inactive status in a reserve component, until the member has completed that study. If a cadet appointed under section 2107a of this title has been accepted for a course of study at an accredited civilian educational institution authorized to grant baccalaureate degrees, the Secretary of the Army may delay the beginning of that member's obligated period of service in a reserve component until the member has completed such course of study.".

Ante, p. 1179.

Effective date. 10 USC 2107a note.

(e) The amendments made by this section shall take effect on October 1, 1980.

SEC. 2. (a) Chapter 101 of title 10, United States Code, relating to training, is amended by adding at the end of such chapter the following new section:

10 USC 2005.

"§ 2005. Advanced education assistance: active duty agreement; reimbursement requirements

"(a) The Secretary concerned may require, as a condition to the Secretary providing advanced education assistance to any person, that such person enter into a written agreement with the Secretary concerned under the terms of which such person shall agree—

"(1) to complete the educational requirements specified in the agreement and to serve on active duty for a period specified in the agreement;

"(2) that if such person fails to complete the education requirements specified in the agreement, such person will serve on active duty for a period specified in the agreement;

"(3) that if such person, voluntarily or because of misconduct, fails to complete the period of active duty specified in the agreement, such person will reimburse the United States in an amount that bears the same ratio to the total cost of advanced education provided such person as the unserved portion of active duty bears to the total period of active duty such person agreed to serve; and Reimbursement to U.S.

"(4) to such other terms and conditions as the Secretary concerned may prescribe to protect the interest of the United States.

"(b) The Secretary concerned shall determine the period of active duty to be served by any person for advanced education assistance to be provided such person by an armed force, except that if the period of active duty required to be served is specified under another provision of law with respect to the advanced education assistance to be provided, the period specified in the agreement referred to in subsection (a) shall be the same as the period specified in such other provision of law.

"(c) Subject to the provisions of subsection (d) of this section, the obligation to reimburse the United States under an agreement described in subsection (a) of this section is, for all purposes, a debt owing the United States.

"(d) A discharge in bankruptcy under title 11 shall not release a person from an obligation to reimburse the United States required under the terms of an agreement described in subsection (a) of this section if the final decree of the discharge in bankruptcy was issued within a period of five years after the last day of a period which such person had agreed to serve on active duty. This subsection applies to a discharge in bankruptcy in any proceeding which begins after September 30, 1978. Discharge in bankruptcy. 11 USC 101.

"(e) In this section— Definitions.

"(1) 'Advanced education' means education or training above the secondary school level but does not include technical training provided to a member of the armed forces to qualify such member to perform a specified military function, to workshops, or to short-term training programs.

"(2) 'Assistance' means the direct provision of any course of advanced education by the Secretary concerned, reimbursement by the Secretary concerned for any course of advanced education provided by another department or agency of the Federal Government, or the payment, in whole or in part, by the Secretary concerned for any course of advanced education provided by any public or private educational institution or other entity, but such term does not include the payment for any course of advanced education which is paid for under chapter 106 or 107 of this title. 10 USC 2131 *et seq.*, *ante*, p. 1111.

"(3) 'Cost of advanced education' means those costs which are, under regulations prescribed by the Secretary concerned, directly attributable to the education of the person to whom a course of advanced education is provided, including the cost of tuition and other fees (or, if none is charged, an amount determined by the Secretary concerned to be a reasonable charge for the education provided), the cost of books, supplies, transporta-

tion, and miscellaneous expenses, and the cost of room and board, but such term does not include pay or allowances under title 37 or a stipend under section 2121 of this title.".

37 USC 101.
10 USC 2121.

(b) The table of sections at the beginning of chapter 101 of such title is amended by adding at the end thereof the following new item:

"2005. Advanced education assistance: active duty agreement; reimbursement requirements.".

Effective date.

SEC. 3. Effective only for the period beginning October 1, 1980, and ending September 30, 1981, section 7572(b) of title 10, United States Code, relating to accommodations in place of quarters for members on sea duty, is amended to read as follows:

Alternate quarters, reimbursement.

"(b) Under such regulations as the Secretary prescribes, any member of the uniformed services on sea duty who is deprived of quarters on board ship because of repairs or because of other conditions that make the member's quarters uninhabitable, may be reimbursed for expenses incurred in obtaining quarters, in an amount not more than the basic allowance for quarters of a member of the same grade without dependents, if it is impracticable to furnish accommodations under subsection (a). A member entitled to receipt of basic allowance for quarters may not be reimbursed for expenses under this subsection when deprived of quarters aboard ship at a location at which the member can reside with such member's dependents. The total amount of such reimbursements for fiscal year 1981 may not exceed $9,000,000.".

Exception.

Limitation.

SEC. 4. Section 3(a) of the Act of August 10, 1956 (33 U.S.C. 857a(a)), relating to the applicability of certain laws to the National Oceanic and Atmospheric Administration, is amended by adding at the end thereof the following new paragraph:

Ante, p. 123.

"(14) Section 7572(b), Quarters: accommodations in place of for members on sea duty.".

Service credit.

SEC. 5. (a) Sections 3686(2) and 8686(2) of title 10, United States Code, relating to service credit for service as members of the Army and Air Force National Guard, are each amended by striking out "sections 316 and 503–505 of title 32" and inserting in lieu thereof "sections 316 and 502 through 505 of title 32".

10 USC 3686 note.

(b) The amendments made by subsection (a) shall apply with respect to full-time training or other full-time duty performed under section 502 of title 32, United States Code, on and after the date of the enactment of this Act.

Inactive duty list or retired status.

SEC. 6. The second sentence of section 672(a) of title 10, United States Code, relating to authority to order members of the Standby Reserve to active duty, is amended to read as follows: "However a member on an inactive status list or in a retired status may not be ordered to active duty under this subsection unless the Secretary concerned, with the approval of the Secretary of Defense in the case of the Secretary of a military department, determines that there are not enough qualified Reserves in an active status or in the inactive National Guard in the required category who are readily available.".

SEC. 7. (a) Section 4818 of the Revised Statutes of the United States (24 U.S.C. 44), relating to funds for the support of the Soldiers' and Airmen's Home, is amended by inserting "or under authority of section 815 of title 10, United States Code" after "courts-martial".

(b) The amendment made by subsection (a) shall become effective on October 1, 1981.

Effective date.
24 USC 44 note.

Approved September 24, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-607 (Comm. on Armed Services).
SENATE REPORT No. 96-850 (Comm. on Armed Services).
CONGRESSIONAL RECORD:
Vol. 125 (1979): Nov. 26, considered and passed House.
Vol. 126 (1980): Aug. 4, considered and passed Senate, amended.
Aug. 28, House concurred in Senate amendments with amendments.
Sept. 10, Senate concurred in House amendments.

79-194 O—81—pt. 1——78: QL3

Public Law 96-358
96th Congress

An Act

Sept. 25, 1980
[S. 261]

To provide for the development of State plans for the construction and improvement of subterminal storage and transportation facilities for certain types of agricultural commodities within the State or within a group of States acting together on a regional basis, and to amend the Consolidated Farm and Rural Development Act to authorize loans for the construction and improvement of such facilities, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Agricultural Subterminal Facilities Act of 1980".

Agricultural Subterminal Facilities Act of 1980.
7 USC 3701 note.

FINDINGS

7 USC 3701.

SEC. 2. Congress finds and declares that—

(1) an adequate system for the efficient transient storage and movement of bulk agricultural commodities is essential to the overall success of the agricultural industry of the Nation, the development of rural areas of the Nation, and the economic stability of the Nation;

(2) the movement and storage of bulk agricultural commodities has been seriously and repeatedly impeded by shortages of transient storage facilities, adequate rail rolling stock, and the deterioration of many railroad track beds and rural highways throughout the United States;

(3) the efficient movement and storage of bulk agricultural commodities may be achieved and facilitated by the joint location at strategic points throughout the United States of transient storage facilities and multimodal terminal facilities constructed especially for the efficient shipment and receipt of agricultural commodities; and

(4) the location of such facilities must be carefully planned to assure maximum benefits to producers of agricultural commodities and unprocessed agricultural products and utilization of the most efficient means of transporting bulk agricultural commodities for domestic and export markets.

DEFINITIONS

7 USC 3702.

SEC. 3. As used in this Act, the term—

(1) "bulk agricultural commodity" means any agricultural commodity that can be transported in bulk and can be temporarily stored in bulk quantities without undergoing processing or packaging. Such term also includes any commodity or product that is used by producers in the production of agricultural commodities and that can be stored or shipped in bulk, such as fertilizer and fuel;

(2) "unprocessed agricultural products" means food, fiber, and other agricultural products that have not been packaged or otherwise prepared for retail sale, including animal products and

unfinished cotton, wool, leather, or any other unfinished natural material;

(3) "Secretary" means Secretary of Agriculture;

(4) "subterminal facility" means any facility that is located in the area of production or consumption of agricultural commodities or any major storage or major export point for such commodities and is located at a place that conveniently serves the needs of producers, purchasers, and consumers of bulk agricultural commodities, and is—

(A) used for the transient storage of bulk agricultural commodities and may include equipment or structures necessary for the transportation, upgrading, receiving, drying, or loading out of such commodities; or

(B) any rail siding, loading, or unloading facility that can accommodate unit railroad trains or multiple car trains and other appropriate transportation modes designed for the transport of bulk agricultural commodities and production materials; and

(5) "region" means two or more States acting together to develop a coordinated regional subterminal facilities plan.

STATE AND REGIONAL PLANS; PLANNING GRANTS

7 USC 3703.

SEC. 4. (a)(1) The Secretary shall, beginning not more than one hundred and eighty days after the effective date of this Act, make financial assistance available to any State that makes application therefor, and that otherwise meets the requirements of this section, for the purpose of assisting such State in the development of a subterminal facilities plan (hereinafter in this Act referred to as the "State plan") for such State. Assistance under this section shall be made available in the form of a grant. No grant may be made to any State unless the Governor of such State or the appropriate agency of such State makes an application therefor as provided in this section. To the maximum extent practicable, the personnel and resources of the colleges or universities in the State which are eligible to receive funds under the Act of July 2, 1862 (7 U.S.C. 301-305, 307, and 308), or the Act of August 30, 1890 (7 U.S.C. 321-326 and 328), including Tuskegee Institute, shall be utilized in developing the subterminal facilities plan for that State pursuant to this section.

(2) The Secretary may also make grants under this section available to two or more States acting together to develop a coordinated regional subterminal facilities plan (hereinafter in this Act referred to as the "regional plan") for such region.

(3) Grants made under this section to any State or region may not exceed 80 per centum of the cost of preparing the State or regional plan.

(4) The State or regional plan shall prescribe in detail the actions such State or region proposes to take in order to (A) facilitate the efficient and competitive movement of bulk agricultural commodities from the points of production within such State or region to major market or export points, (B) provide adequate storage facilities for such commodities between points of production and market, (C) provide adequate receiving, storage, and loading facilities for any bulk agricultural commodity, and (D) assure that such facilities will be located at sites that will result in maximum benefits to local producers.

(5) Each State or regional plan shall include the following:

(A) an analysis of the marketing, shipping, storage, and production of bulk agricultural commodities produced in that State or region and the short- and long-range projections with respect to the marketing, shipping, storage, and production of such commodities in that State or region;

(B) a determination, on the basis of the analysis and projections required under clause (A) of this paragraph, of the needs of the State or region for subterminal facilities;

(C) an assessment of the use of existing on-farm storage facilities located within the State or region and an assessment of the ways in which subterminal facilities can benefit the continued use of on-farm storage facilities;

(D) an evaluation of the effect of the development of new subterminal facilities on small capacity rural shipping and storage facilities within the State or region;

(E) an evaluation of ways to ensure adequate rail service for subterminal facilities described in clause (D) of this paragraph, including an evaluation of the use and feasibility of contract rates;

(F) an assessment of the ways that subterminal facilities can enhance the operation of small capacity shipping and storage facilities within the State or region;

(G) an assessment of other actions being taken or considered in such State or region for the improvement of agricultural transportation, including an evaluation of the use being made of shuttle or collector trains and combinations of rail and barge service;

(H) an evaluation of the potential benefits of subterminal ownership and leasing arrangements for rail rolling stock (including locomotive power), motor trucks, barge equipment, and other bulk agricultural commodity transport equipment that may help achieve maximum benefits from the operation of subterminal facilities within the State or region;

(I) an assessment of the overall transportation system in the State or region and future plans for that overall system, including the adequacy of highways and bridges; and

(J) consideration of the feasibility and advisability of the ownership and operation of rail branch lines by farmer-owned cooperatives, and the role that such cooperatives might play in any overall planning for the restructuring and rehabilitation of rail service and marketing facilities within the State or region.

Plan review commission.

(b) Funds made available to a State or region under this Act for the purposes of assisting such State or region to develop a plan shall be subject to the condition that the State or region establish a plan review commission composed of local producers, local elevator operators, representatives of affected motor and rail carriers, other interested individuals, and, when appropriate in the judgment of the Secretary, consumers of bulk agricultural commodities used in the production of unprocessed agricultural products. A majority of the members of any plan review commission must be local producers or, when appropriate in the judgment of the Secretary, consumers of bulk agricultural commodities used in the production of unprocessed agricultural products. The plan review commission shall consider the information and analyses developed by the State or region in the development of a State or regional plan and make appropriate recommendations regarding the State or regional plan. The plan review commission shall also make recommendations, based on

information developed in the plan, for the most beneficial location of subterminal facilities.

(c) No application for planning assistance authorized pursuant to this section may be submitted by a State or region until the appropriate plan review commission established in accordance with this Act has had the opportunity to make recommendations to the Governor or Governors that a need exists for the development of a State or regional plan, and a majority of the members of such plan review commission concur that such application should be submitted. Applications.

(d) No State or region may receive a grant under this section unless— Grants.

(1) an application therefor has been submitted that complies with the provisions of this Act;

(2) the average annual production of bulk agricultural commodities produced within such State or region, or shipments of such commodities transported into such State or region, meets minimum levels established by the Secretary for a period the Secretary considers appropriate preceding the year in which application for such grant is made;

(3) the Governor of such State or the Governors of the States in such region certify to the Secretary that producers of agricultural commodities have experienced serious storage and transportation problems within such State or region during the three years preceding the year in which application for such grant is made; and

(4) such State or each State within such region has established an adequate plan, as described in section 5(j) of the Department of Transportation Act (49 U.S.C. 1654(j)), for rail service in such State or States, or such State or each State in such region is actively developing such a plan.

(e) Whenever any State or region has submitted a State or regional plan under this section, the Secretary shall approve such plan only if it has been approved by a majority of the members of the appropriate plan review commission established pursuant to this Act, and it meets the other conditions specified in this Act and those prescribed in regulations issued by the Secretary to carry out this Act. When a plan is approved by the Secretary, such plan shall be known as an "approved State plan" or an "approved regional plan", as appropriate.

(f) To carry out the purposes of this section, there are authorized to be appropriated not to exceed $3,300,000 for each of the fiscal years ending September 30, 1981, September 30, 1982, and September 30, 1983. Appropriation authorization.

LOANS UNDER THE CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT

SEC. 5. Section 310B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932) is amended by adding at the end thereof a new subsection (e) as follows:

"(e)(1) The Secretary may also insure and guarantee loans under this section to public, private, or cooperative organizations organized for profit or nonprofit, or to individuals for the purpose of constructing or improving subterminal facilities if—

"(A) the construction or improvement of such facilities is consistent with the appropriate approved State or regional plans and the recommendations of the local plan review commission established pursuant to the Agricultural Subterminal Facilities Act of 1980; *Ante*, p. 1184.

"(B) the Secretary determines that the ownership and operation of such subterminal facilities will result in the efficient and competitive movement of bulk agricultural commodities and will return increased benefits to the local producers served by such facilities; and

"(C) the Secretary determines that the rail carrier designated to provide service to any such facility will be able to provide adequate service.

Stock purchase.

Such loans may be made available for purchase of rail rolling stock (including locomotives), motor trucks, barges, and other bulk agricultural commodities transport equipment to be used in conjunction with the operation of subterminal facilities.

"(2) The Secretary may only insure or guarantee loans under this subsection if the Secretary finds that applicants are unable to obtain credit from commercial lending institutions (including specialized lending institutions established to provide credit to agricultural producers) on reasonable terms and conditions.

"(3) In order to preserve local ownership and control of agricultural transportation facilities, the Secretary shall give preference under this subsection to existing agricultural elevator operators and local producers in areas in which subterminal facilities are proposed to be located.

Allocations.

"(4)(A) The total amount of loan authority made available for use for the purpose of this subsection for any fiscal year shall be allocated by the Secretary on the basis of need among those States that have approved State or regional plans as defined in the Agricultural Subterminal Facilities Act of 1980. Such allocation shall be based on such formula as the Secretary shall prescribe by regulation.

Ante, p. 1184.

"(B) Any loan authority available for use in any State in any fiscal year that is not used by such State shall be reallocated, to the extent practicable, among other States eligible for the assistance provided under this section, in accordance with the same formula developed by the Secretary for the initial allocation of loan authority under this subsection.

"Subterminal facility."

"(5) As used in this subsection, the term 'subterminal facility' has the same meaning as provided in the Agricultural Subterminal Facilities Act of 1980.

"(6) Within one hundred and eighty days after the effective date of the Agricultural Subterminal Facilities Act of 1980, the Secretary shall establish such rules and regulations as may be necessary to implement the provisions of this subsection.". Regulations. *Ante*, p. 1184.

EFFECTIVE DATE

SEC. 6. The provisions of this Act shall become effective October 1, 1980. 7 USC 3701 note.

Approved September 25, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-995 accompanying H.R. 7141 (Comm. on Agriculture).
SENATE REPORT No. 96-159 (Comm. on Agriculture, Nutrition, and Forestry).
CONGRESSIONAL RECORD, Vol. 125 (1979):
May 23, considered and passed Senate.
June 3, H.R. 7141 considered and passed House; passage vacated and S. 261, amended, passed in lieu.
Sept. 11, Senate concurred in House amendments.

Public Law 96-359
96th Congress

An Act

Sept. 26, 1980
[H.R. 6940]

To amend the Federal Food, Drug, and Cosmetic Act to strengthen the authority under that Act to assure the safety and nutrition of infant formulas, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Infant Formula Act of 1980".

Infant Formula Act of 1980.
21 USC 301 note.

SEC. 2. Chapter IV of the Federal Food, Drug, and Cosmetic Act is amended by adding after section 411 the following new section:

"REQUIREMENTS FOR INFANT FORMULAS

Adulterated formulas.
21 USC 350a.

"SEC. 412. (a)(1) An infant formula shall be deemed to be adulterated if—

"(A) such infant formula does not provide nutrients as required by subsection (g);

"(B) such infant formula does not meet the quality factor requirements prescribed by the Secretary under this section; or

"(C) the processing of such infant formula is not in compliance with the quality control requirements prescribed by the Secretary under this section.

"(2) The Secretary may by regulation—

"(A) revise the list of nutrients in the table in subsection (g);

"(B) revise the required level for any nutrient required by subsection (g);

"(C) establish requirements for quality factors for such nutrients; and

Quality control procedures.

"(D) establish such quality control procedures as the Secretary determines necessary to assure that an infant formula provides nutrients in accordance with this section and establish requirements respecting the retention of records of procedures required under this clause (including maintaining necessary nutrient testing records).

Testing.

Quality control procedures prescribed by the Secretary shall include the periodic testing of infant formulas to determine whether they are in compliance with this section.

Notification to Secretary.

"(b)(1) On the 90th day after the date of the enactment of this section, and on each 90th day thereafter, a manufacturer of infant formula shall notify the Secretary that each infant formula manufactured by such manufacturer provides the nutrients required under subsection (g). Such notification requirement shall expire upon the effective date of regulations relating to quality control procedures prescribed by the Secretary under subsection (a)(2)(D).

"(2) Not later than the 90th day before the first processing of any infant formula for commercial or charitable distribution for human consumption, the manufacturer shall notify the Secretary whether—

"(A) such infant formula provides nutrients in accordance with subsection (g) and meets the quality factor requirements prescribed by the Secretary; and

"(B) the processing of such infant formula meets the quality control procedure requirements prescribed by the Secretary.

"(3) Before the first processing of any infant formula for commercial or charitable distribution for human consumption—

"(A) after a change in its formulation, or

"(B) after a change in its processing,

which the manufacturer reasonably determines may affect whether the formula is adulterated as determined under subsection (a)(1), the manufacturer shall notify the Secretary of such changes and that the formula provides nutrients in accordance with subsection (g) and meets the quality factor requirements prescribed by the Secretary and that the processing of such infant formula is in compliance with the quality control procedures prescribed by the Secretary.

"(c)(1) If the manufacturer of an infant formula has knowledge which reasonably supports the conclusion that an infant formula which has been processed by the manufacturer and which has left an establishment subject to the control of the manufacturer—

"(A) may not provide the nutrients required by subsection (g); or

"(B)(i) may be otherwise adulterated or misbranded, and

"(ii) if so adulterated or misbranded presents a risk to human health,

the manufacturer shall promptly notify the Secretary of such noncompliance or risk to health.

"Knowledge."

"(2) For purposes of paragraph (1), the term 'knowledge' as applied to a manufacturer means (A) the actual knowledge that the manufacturer had, or (B) the knowledge which a reasonable person would have had under like circumstances or which would have been obtained upon the exercise of due care.

Recall.

"(d)(1) If a recall of an infant formula is begun by a manufacturer, the recall shall be carried out in accordance with such requirements as the Secretary may prescribe under paragraph (2), and—

Review.

"(A) the Secretary shall, not later than the 15th day after the beginning of such recall and at least once every 15 days thereafter until the recall is terminated, review the actions taken under the recall to determine whether the recall meets the requirements prescribed under paragraph (2); and

Report to Secretary.

"(B) the manufacturer shall, not later than the 14th day after the beginning of such recall and at least once every 14 days thereafter until the recall is terminated, report to the Secretary the actions taken to implement the recall.

Regulations.

"(2) The Secretary shall by regulation prescribe the scope and extent of recalls of infant formulas necessary and appropriate for the degree of risk to human health presented by the formula subject to the recall.

Records.

"(e)(1) Each manufacturer of an infant formula shall make and retain such records respecting the distribution of the infant formula through any establishment owned or operated by such manufacturer as may be necessary to effect and monitor recalls of the formula. No manufacturer shall be required under this subsection to retain any record respecting the distribution of an infant formula for a period of longer than 2 years from the date the record was made.

"(2) To the extent that the Secretary determines that records are not being made or maintained in accordance with paragraph (1), the Secretary may by regulation prescribe the records required to be made under paragraph (1) and requirements respecting the retention of such records under such paragraph. Such regulations shall take effect on such date as the Secretary prescribes but not sooner than the 180th day after the date such regulations are promulgated. Such regulations shall apply only with respect to distributions of infant formulas made after such effective date.

Exemptions.

"(f)(1) Any infant formula which is represented and labeled for use by an infant—

"(A) who has an inborn error of metabolism or a low birth weight, or

"(B) who otherwise has an unusual medical or dietary problem,

is exempt from the requirements of subsections (a) and (b). The manufacturer of an infant formula exempt under this paragraph shall, in the case of the exempt formula, be required to provide the notice required by subsection (c)(1) only with respect to adulteration or misbranding described in subsection (c)(1)(B), and to comply with the regulations prescribed by the Secretary under paragraph (2).

"(2) The Secretary may by regulation establish terms and conditions for the exemption of an infant formula from the requirements of subsections (a) and (b). An exemption of an infant formula under paragraph (1) may be withdrawn by the Secretary if such formula is not in compliance with applicable terms and conditions prescribed under this paragraph.

Nutrient contents.

"(g) An infant formula shall contain nutrients in accordance with the table set out in this subsection or, if revised by the Secretary under subsection (a)(2), as so revised:

"NUTRIENTS

Nutrient	Minimum*	Maximum*
Protein (gm)	1.8[b]	4.5.
Fat:		
gm	3.3	6.0.
percent cal	30.0	54.0.
Essential fatty acids (linoleate):		
percent cal	2.7	
mg	300.0	
Vitamins:		
A (IU)	250.0 (75 μg)[c]	750.0 (225 μg).[c]
D (IU)	40.0	100.0.
K (μg)	4.0	
E (IU)	0.7 (with 0.7 IU/gm linoleic acid).	
C (ascorbic acid) (mg)	8.0	
B_1 (thiamine) (μg)	40.0	
B_2 (riboflavin) (μg)	60.0	
B_6 (pyridoxine) (μg)	35.0 (with 15 μg/gm of protein in formula).	
B_{12} (μg)	0.15	
Niacin (μg)	250.0	
Folic acid (μg)	4.0	
Pantothenic acid (μg)	300.0	
Biotin (μg)	1.5[d]	
Choline (mg)	7.0[d]	
Inositol (mg)	4.0[d]	
Minerals:		
Calcium (mg)	50.0[e]	
Phosphorus (mg)	25.0[e]	
Magnesium (mg)	6.0	
Iron (mg)	0.15	
Iodine (μg)	5.0	
Zinc (mg)	0.5	
Copper (μg)	60.0	
Manganese (μg)	5.0	60.0.
Sodium (mg)	20.0	200.0.
Potassium (mg)	80.0	150.0.
Chloride (mg)	55.0	

*Stated per 100 kilocalories.
[b]The source of protein shall be at least nutritionally equivalent to casein.
[c]Retinol equivalents.
[d]Required to be included in this amount only in formulas which are not milk-based.
[e]Calcium to phosphorus ratio must be no less than 1:1 nor more than 2:0."

SEC. 3. Section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321) is amended by adding at the end the following:

"(aa) The term 'infant formula' means a food which purports to be or is represented for special dietary use solely as a food for infants by reason of its simulation of human milk or its suitability as a complete or partial substitute for human milk." "Infant formula."

SEC. 4. Section 704(a) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 374(a)) is amended—

(1) in the first sentence, by inserting "(1)" before "For purposes" and by redesignating clauses (1) and (2) as clauses (A) and (B), respectively;

(2) in the third sentence, by inserting "or by paragraph (3)" after "preceding sentence";

(3) in the sixth sentence, (A) by striking out "The provisions of the second sentence of this subsection" and inserting in lieu thereof the following:

"(2) The provisions of the second sentence of paragraph (1)", and (B) by redesignating paragraphs (1) through (4) as subparagraphs (A) through (D), respectively; and

(4) by adding at the end the following:

"(3) An officer or employee making an inspection under paragraph (1) for purposes of enforcing the requirements of section 412 applicable to infant formulas shall be permitted, at all reasonable times, to have access to and to copy and verify any records— *Ante*, p. 1190.

"(A) bearing on whether the infant formula manufactured or held in the facility inspected meets the requirements of section 412, or

"(B) required to be maintained under section 412.". 21 USC 331.

SEC. 5. (a) Section 301 of the Federal Food, Drug, and Cosmetic Act is amended by adding at the end the following new paragraph:

"(s) The failure to provide the notice required by section 412(b) or 412(c), the failure to make the reports required by section 412(d)(1)(B), or the failure to meet the requirements prescribed under section 412(d)(2).".

(b) Section 301(e) of such Act is amended (1) by striking out "section 703" and inserting in lieu thereof "section 412 or 703", and (2) by striking out "section 505" and inserting in lieu thereof "section 412, 505".

(c) Section 301(j) of such Act is amended by inserting "412," before "505".

SEC. 6. Section 412 of the Federal Food, Drug, and Cosmetic Act (added by section 2) shall apply with respect to infant formulas manufactured on or after the 90th day after the date of the enactment of this Act. Effective date. 21 USC 350a note.

SEC. 7. (a) The Secretary of Health and Human Services shall conduct a study to determine the long-term effect on infants of hypochloremic metabolic alkalosis resulting from infant formulas deficient in chloride. The Secretary shall report the results of such study to the Congress. Health study. Report to Congress.

(b) The Secretary of Health and Human Services shall conduct a review of existing Federal requirements for the labeling of infant formula to determine the effect of such requirements on infant nutrition and proper use of infant formula. Not later than the 180th day after the date of the enactment of this Act, the Secretary shall Federal labeling requirements, review. Submittal to congressional committees.

submit a report to the Committee on Labor and Human Resources of the Senate and the Committee on Interstate and Foreign Commerce of the House of Representatives containing the results of the review and including recommendations for any legislative or administrative action with respect to the labeling of infant formula as the Secretary determines appropriate.

Export issues, review.

(c) The Secretary of Health and Human Services shall conduct a review of issues concerning the export of infant formula that, if marketed in the United States, would be in violation of section 412 of the Federal Food, Drug, and Cosmetic Act. Not later than the 180th day after the date of enactment of this Act, the Secretary shall submit a report to the Committee on Labor and Human Resources of the Senate and the Committee on Interstate and Foreign Commerce of the House of Representatives, containing the results of the review and including recommendations regarding appropriate legislative or administrative action to improve current export policies, as the Secretary determines appropriate.

Ante, p. 1190. Submittal to congressional committees.

SEC. 8. (a) Section 503 of the Controlled Substances Act (21 U.S.C. 873) is amended by adding at the end the following new subsection:

"(c) The Attorney General shall annually (1) select the controlled substance (or controlled substances) contained in schedule II which, in the Attorney General's discretion, is determined to have the highest rate of abuse, and (2) prepare and make available to regulatory, licensing, and law enforcement agencies of States descriptive and analytic reports on the actual distribution patterns in such States of each such controlled substance.".

Controlled substance with highest abuse rate.

(b) Section 203 of the Psychotropic Substances Act of 1978 (Public Law 95-633) is amended by striking out subsection (d).

21 USC 830, 841, 842, 843.

(c) Section 401 of the Controlled Substances Act (21 U.S.C. 841) is amended—

(1) by striking out "except as provided in paragraphs (4) and (5) of this subsection" in the first sentence of subsection (b)(1)(B) and inserting in lieu thereof "except as provided in paragraphs (4), (5), and (6) of this subsection"; and

(2) by adding after paragraph (5) of subsection (b) the following new paragraph:

Penalties.

"(6) In the case of a violation of subsection (a) involving a quantity of marihuana exceeding 1,000 pounds, such person shall be sentenced to a term of imprisonment of not more than 15 years, and in addition, may be fined not more than $125,000. If any person commits such a violation after one or more prior convictions of such person for an offense punishable under paragraph (1) of this paragraph, or for a

felony under any other provision of this title, title III, or other law of the United States relating to narcotic drugs, marihuana, or depressant or stimulant substances, have become final, such person shall be sentenced to a term of imprisonment of not more than 30 years, and in addition, may be fined not more than $250,000.". 21 USC 801, 951.

Approved September 26, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-936 (Comm. on Interstate and Foreign Commerce).
SENATE REPORT No. 96-916 accompanying S. 2490 (Comm. on Labor and Human Resources).
CONGRESSIONAL RECORD, Vol. 126 (1980):
May 20, considered and passed House.
Sept. 8, considered and passed Senate, amended, in lieu of S. 2490.
Sept. 9, House concurred in Senate amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 16, No. 39:
Sept. 26, Presidential remarks and statement.

Public Law 96-360
96th Congress

An Act

Sept 26, 1980
[H.R. 3210]

To terminate the authority to make grants to the Las Vegas Valley Water District under the Act of August 27, 1954.

Las Vegas Valley Water District, termination of grant authority. Repeal.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That effective on the date of enactment of this Act, the Act of August 27, 1954, entitled "An Act granting to the Las Vegas Valley Water District, a public corporation organized under the laws of the State of Nevada, certain public lands of the United States in the State of Nevada" (68 Stat. 864) is hereby repealed.

SEC. 2. Nothing in this Act shall in any manner affect any grant made under the authority of the Act of August 27, 1954, prior to the effective date of this Act.

Approved September 26, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1065 (Comm. on Interior and Insular Affairs).
CONGRESSIONAL RECORD, Vol. 126 (1980):
June 16, considered and passed House.
Sept 16, considered and passed Senate.

Public Law 96-361
96th Congress

An Act

Sept. 26, 1980
[H.R. 6511]

To designate the building known as the Federal Building in Morgantown, West Virginia, as the "Harley O. Staggers Federal Building".

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the building at 75 High Street, Morgantown, West Virginia (commonly known as the Federal Building), shall hereafter be known, called, and designated as the "Harley O. Staggers Federal Building". Any reference in any law, map, regulation, document, record, or other paper of the United States to such building shall be deemed to be a reference to the "Harley O. Staggers Federal Building".

Harley O. Staggers Federal Building. Designation.

SEC. 2. The authorization contained in section 1 of this Act shall become effective on January 15, 1981.

Effective date.

Approved September 26, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-901 (Comm. on Public Works and Transportation).
CONGRESSIONAL RECORD, Vol. 126 (1980):
May 5, considered and passed House.
Sept. 9, considered and passed Senate, amended.
Sept. 16, House concurred in Senate amendment.

Public Law 96-362
96th Congress

An Act

Sept. 26, 1980
[S. 1650]

To provide for the development of aquaculture in the United States, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Aquaculture Act of 1980".

National Aquaculture Act of 1980.
16 USC 2801 note.

FINDINGS, PURPOSE, AND POLICY

16 USC 2801.

SEC. 2. (a) FINDINGS.—Congress finds the following:

(1) The harvest of certain species of fish and shellfish exceeds levels of optimum sustainable yield, thereby making it more difficult to meet the increasing demand for aquatic food.

(2) To satisfy the domestic market for aquatic food, the United States imports more than 50 per centum of its fish and shellfish, but this dependence on imports adversely affects the national balance of payments and contributes to the uncertainty of supplies.

(3) Although aquaculture currently contributes approximately 10 per centum of world seafood production, less than 3 per centum of current United States seafood production results from aquaculture. Domestic aquacultural production, therefore, has the potential for significant growth.

(4) Aquacultural production of aquatic plants can provide sources of food, industrial materials, pharmaceuticals, and energy, and can assist in the control and abatement of pollution.

(5) The rehabilitation and enhancement of fish and shellfish resources are desirable applications of aquacultural technology.

(6) The principal responsibility for the development of aquaculture in the United States must rest with the private sector.

(7) Despite its potential, the development of aquaculture in the United States has been inhibited by many economic, legal, and production factors, such as inadequate credit, diffused legal jurisdiction, the lack of management information, and the lack of reliable supplies of seed stock.

(8) Many areas of the United States are suitable for aquaculture, but are subject to land-use or water-use management policies that do not adequately consider the potential for aquaculture and may inhibit the development of aquaculture.

(b) PURPOSE.—It is the purpose of this Act to promote aquaculture in the United States by—

(1) declaring a national aquaculture policy;

(2) establishing and implementing a national aquaculture development plan; and

(3) encouraging aquaculture activities and programs in both the public and private sectors of the economy;

that will result in increased aquacultural production, the coordination of domestic aquaculture efforts, the conservation and enhance-

ment of aquatic resources, the creation of new industries and job opportunities, and other national benefits.

(c) POLICY.—Congress declares that aquaculture has the potential for augmenting existing commercial and recreational fisheries and for producing other renewable resources, thereby assisting the United States in meeting its future food needs and contributing to the solution of world resource problems. It is, therefore, in the national interest, and it is the national policy, to encourage the development of aquaculture in the United States.

DEFINITIONS

16 USC 2802.

SEC. 3. As used in this Act, unless the context otherwise requires—

(1) The term "aquaculture" means the propagation and rearing of aquatic species in controlled or selected environments, including, but not limited to, ocean ranching (except private ocean ranching of Pacific salmon for profit in those States where such ranching is prohibited by law).

(2) The term "aquaculture facility" means any land, structure, or other appurtenance that is used for aquaculture and is located in any State. Such term includes, but is not limited to, any laboratory, hatchery, rearing pond, raceway, pen, incubator, or other equipment used in aquaculture.

(3) The term "aquatic species" means any species of finfish, mollusk, crustacean, or other aquatic invertebrate, amphibian, reptile, or aquatic plant.

(4) The term "coordinating group" means the interagency aquaculture coordinating group established by section 6.

(5) The term "person" means any individual who is a citizen or national of the United States or of any State, any Indian tribe, any institution of higher education, and any corporation, partnership, association or other entity (including, but not limited to, any community development corporation, producer cooperative, or fishermen's cooperative) organized or existing under the laws of any State.

(6) The term "Plan" means the National Aquaculture Development Plan required to be established under section 4.

(7) The term "Secretaries" means the Secretary of Agriculture, the Secretary of Commerce, and the Secretary of the Interior.

(8) The term "State" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands of the United States, Guam, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands, or any other territory or possession of the United States.

NATIONAL AQUACULTURE DEVELOPMENT PLAN

16 USC 2803.

SEC. 4. (a) IN GENERAL.—(1) Within eighteen months after the date of the enactment of this Act, the Secretaries shall establish the National Aquaculture Development Plan.

(2) In developing the Plan, and revisions thereto under subsection (d), beginning not later than six months after the date of enactment of this Act, the Secretaries shall consult with other appropriate Federal officers, States, regional fishery management councils established under section 302 of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1852), and representatives of the aquaculture industry. In addition, the Secretaries shall give interested persons

Comments.

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and organizations an opportunity to comment during the development of the Plan.

Advisory committee membership.

(3) If the Secretaries deem it to be appropriate, they may establish, and appoint the members of, an advisory committee to assist in the initial development of the Plan. Individuals appointed to the advisory committee shall be knowledgeable or experienced in the principles and practices of aquaculture. The members of the advisory committee (other than officers or employees of the Federal Government), while away from their homes or regular places of business in the performance of services for the advisory committee, shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5 of the United States Code.

Travel expenses.

(b) CONTENTS OF PLAN.—The Plan shall—

(1) identify aquatic species that the Secretaries determine have significant potential for culturing on a commercial or other basis;

(2) recommend actions to be taken by the public and private sectors (which may include, but are not limited to, research and development, technical assistance, demonstration, extension education, and training activities) that are necessary to achieve such potential;

(3) address, after taking into account the status of aquaculture regarding the aquatic species concerned—

(A) aquaculture facility design and operation,

(B) water quality management,

(C) use of waste products (including thermal effluents), including natural food sources,

(D) nutrition and the development of economical feeds,

(E) life history, genetics, physiology, pathology, and disease control (including research regarding organisms that may not be harmful to fish and shellfish, but are injurious to humans),

(F) processing and market development,

(G) production management and quality control, and

(H) the development of adequate supplies of seed stock;

(4) include, where appropriate, research programs on the effect of aquaculture on estuarine and other water areas and on the management of such areas for aquaculture;

(5) include, where appropriate, programs to analyze, and formulate proposed resolutions of, the legal or regulatory constraints that may affect aquaculture; and

(6) include such other research and development, technical assistance, demonstration, extension education, and training programs as the Secretaries deem necessary or appropriate to carry out this Act.

In formulating the Plan, the Secretaries shall, to the extent practicable, take into account any significant action that (i) has been, or is proposed to be, undertaken by any other Federal department or agency, any State agency, or any person, and (ii) may affect the implementation of the Plan.

(c) ACTIONS AND IMPLEMENTATION.—The Plan shall specify—

(1) with respect to those actions that the Secretaries determine should be undertaken, the period of time within which each such action should be completed, in order to implement the Plan; and

(2) with respect to each such action which of the Secretaries, acting individually, jointly, or collectively, has the responsibility for implementing the action.

The specifications of Secretarial responsibilities under paragraph (2) for implementing actions shall be determined on the basis of—

(A) the responsibilities conferred on the respective Secretaries by law or by any executive action having the effect of law (including, but not limited to, Reorganization Plan Numbered 4 of 1970); and 15 USC 1511 note.

(B) the experience, expertise, and other appropriate resources that the department of each such Secretary may have with respect to the action required under the activity concerned.

(d) REVISION OF PLAN.—The Secretaries shall undertake periodic reviews of the operation and effectiveness of the Plan. If as a result of any such review, or the aquaculture assessment required under subsection (e), the Secretaries determine that— Periodic reviews.

(1) any aquatic species not currently identified in the Plan has significant potential for aquaculture;

(2) any action specified in the Plan is not being accomplished on a successful and timely basis; or

(3) any action specified in the Plan should be terminated because its objectives have been achieved or its projected benefits do not warrant further support;

the Secretaries shall appropriately amend the Plan.

(e) CONTINUING AQUACULTURE ASSESSMENT.—The Secretaries, through the coordinating group, shall undertake a continuing assessment of aquaculture in the United States for the purpose of maintaining, on a continuing basis—

(1) a complete profile of the aquacultural industry with respect to the incidence, size, and status of commercial aquacultural enterprises;

(2) the identification of the private and public institutions and organizations involved in aquacultural research, extension, credit, and market development;

(3) the identification of the various aquatic species being cultured and a description of the status of commercial development of each of those species;

(4) to the extent practicable, the identification of aquacultural production regions, species, and markets that have significant potential for development;

(5) a catalog describing all Federal programs and activities that directly or indirectly encourage, support, or assist aquaculture; and

(6) the identification of the economic, physical, legal, institutional, and social constraints that inhibit the development of aquaculture in the United States.

FUNCTIONS AND POWERS OF SECRETARIES

SEC. 5. (a) MANDATORY FUNCTIONS.—In implementing the Plan, the Secretaries shall— 16 USC 2804.

(1) provide advisory, educational, and technical assistance (including training) with respect to aquaculture to interested persons, and in providing such assistance, shall, to the maximum extent practicable, avoid duplication of similar assistance provided by other Federal departments and agencies and by State agencies;

(2) consult and cooperate with interested persons, Federal departments and agencies, State agencies, and regional fishery management councils established under section 302 of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1852);

(3) encourage the implementation of aquacultural technology in the rehabilitation and enhancement of publicly owned fish and shellfish stocks (including rehabilitation and enhancement by private nonprofit enterprises), and in the development of private commercial aquacultural enterprises; and

(4) prescribe such regulations as may be necessary to carry out the Plan.

(b) DISCRETIONARY FUNCTIONS.—In implementing the Plan, the Secretaries may—

(1) for the purposes of assessing the biological, technical, and economic feasibility of any aquacultural system—

(A) conduct tests of the system, and, if necessary to demonstrate its feasibility, construct, operate, and maintain developmental aquaculture facilities for testing laboratory results, and

(B) conduct such other tests or analyses as may be necessary;

(2) develop methods to enhance seed stocks of aquatic species; and

(3) conduct such other tests or analyses or take such other actions as the Secretaries deem necessary or appropriate.

(c) INFORMATION SERVICES.—(1) In addition to performing such other required functions under this Act, the Secretaries shall—

(A) establish and maintain an information service for the collection, analysis, and dissemination of scientific, technical, legal, and economic information relating to aquaculture;

(B) conduct appropriate surveys, in coordination with other Federal departments and agencies, of public and private aquacultural activities being conducted in the United States for the purpose of acquiring information on acreages, water use, production, culture techniques, and other relevant matters;

(C) arrange with foreign nations for the exchange of information relating to aquaculture and support a translation service;

(D) conduct a continuing study to determine whether existing capture fisheries could be adversely affected by competition from products produced by commercial aquacultural enterprises and include in such study—

(i) an assessment of any adverse effect, by species and by geographical region, on such fisheries, and

(ii) recommended measures to ameliorate any such effect; and

(E) report to Congress on the findings of the study conducted under subparagraph (D) in the biennial status report required under subsection (d).

Report to Congress.

(2) Any production information submitted to the Secretaries under paragraph (1)(B) shall be confidential and may only be disclosed if required under court order. The Secretaries shall prescribe such procedures as may be necessary to preserve such confidentiality. The Secretaries may release or make public any information in any aggregate or summary form that does not directly or indirectly disclose the identity, business transactions, or trade secrets of any person who submits such information.

Confidential information, disclosure.

(d) BIENNIAL REPORT.—The Secretaries, through the coordinating group, shall prepare on a biennial basis, and submit to Congress, a report on the status of aquaculture in the United States. Each such report shall contain a description and evaluation of the actions undertaken with respect to the Plan during the reporting period, an explanation of any revisions made to the Plan under section 4(d)

Submittal to Congress.

during the reporting period, and such other comments and recommendations as the Secretaries deem appropriate. The first report required under this subsection shall be submitted to Congress by September 30, 1981.

COORDINATION OF NATIONAL ACTIVITIES REGARDING AQUACULTURE

Interagency aquaculture coordinating group.
16 USC 2805.

SEC. 6. (a) ESTABLISHMENT.—There is established within the Office of Science and Technology Policy an interagency aquaculture coordinating group that shall, subject to subsection (f), operate as a Joint Subcommittee on Aquaculture of the Federal Coordinating Council on Science, Engineering, and Technology (hereinafter in this section referred to as the "Federal Council") established by Executive Order 12039, dated February 24, 1978. The coordinating group shall be composed of the following members or their designees:

42 USC 6601 note.

Membership.

(1) The Secretary of Agriculture.
(2) The Secretary of Commerce.
(3) The Secretary of the Interior.
(4) The Secretary of Energy.
(5) The Secretary of Health and Human Services.
(6) The Administrator of the Environmental Protection Agency.
(7) The Chief of Engineers.
(8) The Administrator of the Small Business Administration.
(9) The Administrator of the Agency for International Development.
(10) The Chairman of the Tennessee Valley Authority.
(11) The Director of the National Science Foundation.
(12) The Governor of the Farm Credit Administration.
(13) The heads of such other Federal agencies as are deemed appropriate by the Director of the Office of Science and Technology Policy (hereinafter in this section referred to as the "Director"), after consultation with the coordinating group.

(b) PURPOSE AND FUNCTIONS.—The purpose of the coordinating group is to increase the overall effectiveness and productivity of Federal aquaculture research, transfer, and assistance programs. In fulfilling this purpose the coordinating group shall—

(1) review the national needs for aquaculture research, transfer, and assistance;
(2) assess the effectiveness and adequacy of Federal efforts to meet those national needs;
(3) undertake planning, coordination, and communication among Federal agencies engaged in the science, engineering, and technology of aquaculture;
(4) collect, compile, and disseminate information on aquaculture;
(5) encourage joint programs among Federal agencies in areas of mutual interest; and
(6) recommend to the Federal Council specific actions on issues, problems, plans, and programs in aquaculture.

(c) CHAIRMAN.—Each of the Secretaries or their designees, on such rotating basis as shall be determined by the Director, shall serve as the chairman of the coordinating group. The term of office of the chairman is two years.

(d) REPORTS.—The coordinating group shall regularly report to the Chairman of the Federal Council on the coordinating group's activities and on recommendations concerning Federal policies and programs related to aquaculture.

(e) FEDERAL CONSISTENCY.—Each Federal department and agency that has functions or responsibilities with respect to aquaculture or has jurisdiction over any activity that affects, or that may affect, the achievement of the purpose and policy of this Act, shall, in consultation with the coordinating group and to the maximum extent practicable, perform such function, responsibility, or activity in a manner that is consistent with the purpose and policy of this Act.

(f) FUNCTIONS IF FEDERAL COUNCIL TERMINATED.—If at any time after the date of the enactment of this Act, the functions of the Federal Council are by executive action terminated or transferred to an agency other than the Office of Science and Technology Policy, the coordinating group shall carry out its purpose under the direction of the Director. In that event, the recommendations of the coordinating group referred to in subsection (b)(6) and the reports required under subsection (d) shall be made to the Director.

CONTRACTS AND GRANTS

16 USC 2806.

SEC. 7. (a) IN GENERAL.—The Secretaries may each carry out any action that such Secretary is responsible for implementing under the Plan through grants to, or contracts with, any person, any other Federal department or agency, any State agency, or any regional commission.

(b) TERMS AND CONDITIONS.—Any contract entered into, or any grant made, under subsection (a) shall contain such terms and conditions as the Secretary concerned shall by regulation prescribe as being necessary or appropriate to protect the interests of the United States. No contract may be entered into, and no grant may be made under subsection (a), for any purpose that is in violation of any applicable State or local law.

(c) LIMITATION.—The amount of any grant made under subsection (a) may not exceed an amount equal to one-half the estimated cost of the project for which the grant is made.

(d) AUDIT.—Each recipient of a grant or contract under this section shall make available to the Secretary concerned and to the Comptroller General of the United States, for purposes of audit and examination, any book, document, paper, or record that is pertinent to the funds received under such grant or contract.

CAPITAL REQUIREMENTS FOR AQUACULTURE

16 USC 2807.

SEC. 8. (a) CAPITAL REQUIREMENTS STUDY.—The Secretaries, through the coordinating group, shall conduct within twelve months after the date of enactment of this Act, a study of the capital requirements of the United States aquaculture industry. The study shall—

(1) document and analyze any capital constraints that affect the development of aquaculture in the United States; and

(2) evaluate the role that appropriate Federal financial assistance does or could play in filling gaps in the normal credit market with respect to aquaculture.

The study will identify the capital needs of the United States aquaculture industry, with emphasis on the needs that are not being filled either in normal credit channels or through government programs for direct loans, loan guarantees, disaster loans, and insurance. Upon its completion, the Secretaries shall submit the results of the study to Congress.

Submittal to Congress.

(b) CAPITAL REQUIREMENTS PLAN.—Based on the results of the Capital Requirements Study conducted under subsection (a), and within six months of the completion of the study, the Secretaries shall formulate a plan for acting on the study's findings. The plan shall include: (1) those Federal actions, if any, found to be necessary to meet financial needs unmet through normal credit channels and existing Federal programs; and (2) recommendations, if any, for legislative actions. Upon completion, the plan shall be submitted to Congress.

Submittal to Congress.

REGULATORY CONSTRAINTS ON AQUACULTURE

SEC. 9. (a) REGULATORY CONSTRAINTS STUDY.—The Secretaries, through the coordinating group, shall conduct, within twelve months after the date of enactment of this Act, a study of the State and Federal regulatory restrictions to aquaculture development in the United States. The study shall— 16 USC 2808.

(1) include a literature review and a descriptive list identifying the parameters of the issue;

(2) identify and list relevant current and pending Federal regulations restricting the development of commercial aquaculture operations;

(3) identify and list relevant current State regulations restricting the development of commercial aquaculture operations in five States selected randomly in five separate geographic regions of the United States;

(4) conduct case studies of ten commercial aquaculture operations in the United States representing a wide range of marine and fresh water species to determine the practical effects of regulatory restrictions on aquaculture; and

(5) develop a flow-chart time line using the information obtained by means of paragraphs (1) through (4) to identify those regulations and restrictions that could have the most detrimental effect in establishing commercial aquaculture operations in the United States.

Upon completion of the study, the Secretaries shall submit its results to Congress.

Submittal to Congress.

(b) REGULATORY CONSTRAINTS PLAN.—Based on the results of the Regulatory Constraints Study conducted under subsection (a), and within six months of the study's completion, the Secretaries shall formulate a plan for acting on the study's findings. The plan will contain specific steps the Federal Government can take to remove unnecessarily burdensome regulatory barriers to the initiation and operation of commercial aquaculture ventures. Upon its completion, the Secretaries shall submit the plan to Congress.

Submittal to Congress.

AUTHORIZATIONS FOR APPROPRIATIONS

SEC. 10. For purposes of carrying out the provisions of this Act, there are authorized to be appropriated— 16 USC 2809.

(1) to the Department of Agriculture—

(A) $7,000,000 for fiscal year 1981,

(B) $10,000,000 for fiscal year 1982, and

(C) $12,000,000 for fiscal year 1983;

(2) to the Department of Commerce—

(A) $7,000,000 for fiscal year 1981,

(B) $10,000,000 for fiscal year 1982, and

(C) $12,000,000 for fiscal year 1983; and

(3) to the Department of the Interior—
(A) $3,000,000 for fiscal year 1981,
(B) $4,000,000 for fiscal year 1982, and
(C) $5,000,000 for fiscal year 1983.

Funds authorized by this section shall be in addition to, and not in lieu of, funds authorized by any other Act.

DISCLAIMER

16 USC 2810.

SEC. 11. Nothing in this Act shall be construed to amend, repeal, or otherwise modify the authority of any Federal officer, department, or agency to perform any function, responsibility, or activity authorized under any other provision of law.

Approved September 26, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 96-198, Pt. 1 (Comm. on Merchant Marine and Fisheries) and No. 96-198, Pt. 2, (Comm. on Agriculture) both accompanying H.R. 20.

SENATE REPORT No. 96-660 (Comm. on Commerce, Science, and Transportation) and (Comm. on Agriculture, Nutrition and Forestry).

CONGRESSIONAL RECORD, Vol. 126 (1980):
Apr. 30, considered and passed Senate.
Sept. 8, H.R. 20 considered and passed House; passage vacated and S. 1650, amended, passed in lieu.
Sept. 11, Senate concurred in House amendment.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 16, No. 39:
Sept. 26, Presidential statement.

Public Law 96-363
96th Congress

An Act

Sept. 26, 1980
[S. 2223]

To permit any Indian to transfer by will restricted lands of such Indian to his or her heirs or lineal descendants, and other Indian persons.

Indians.
Restricted lands, transfer.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the first proviso of section 4 of the Act of June 18, 1934 (48 Stat. 984, 985; 25 U.S.C. 464), is amended by striking the phrase "or any heirs of such members" and inserting in lieu thereof, the phrase "or any heirs or lineal descendants of such member or any other Indian person for whom the Secretary of the Interior determines that the United States may hold land in trust".

Repeals.

SEC. 2. (a) The second and third provisos contained in the paragraph entitled "Determining Heirs" in the Act of January 24, 1923 (42 Stat. 1185; 25 U.S.C. 377), as amended, and section 2 of the Act of December 24, 1942 (56 Stat. 1080, 1081; 25 U.S.C. 375b), are hereby repealed.

Unpaid fees.
25 USC 377 note.

(b) The Secretary of the Interior may cancel any unpaid fees assessed under the provisions repealed by this section.

Approved September 26, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1285 (Comm. on Interior and Insular Affairs).
SENATE REPORT No. 96-760 (Comm. on Indian Affairs).
CONGRESSIONAL RECORD, Vol. 126 (1980):
May 22, considered and passed Senate.
Sept. 15, considered and passed House, amended.
Sept. 16, Senate concurred in House amendment.

Public Law 96-364
96th Congress

An Act

Sept. 26, 1980
[H.R. 3904]

To amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1954 to improve retirement income security under private multiemployer pension plans by strengthening the funding requirements for those plans, to authorize plan preservation measures for financially troubled multiemployer pension plans, and to revise the manner in which the pension plan termination insurance provisions apply to multiemployer plans, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Multiemployer Pension Plan Amendments Act of 1980.
29 USC 1001 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Multiemployer Pension Plan Amendments Act of 1980".

SEC. 2. TABLE OF CONTENTS.

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Sec. 414. Treatment of certain retirement benefits.
Sec. 415. Increase in length of service in Armed Forces required for ex-servicemen to be eligible for unemployment benefits.
Sec. 416. Cessation of extended benefits when paid under an interstate plan in a State where extended benefit period is not in effect.

29 USC 1001a.

SEC. 3. FINDINGS AND DECLARATION OF POLICY.

(a) The Congress finds that—

(1) multiemployer pension plans have a substantial impact on interstate commerce and are affected with a national public interest;

(2) multiemployer pension plans have accounted for a substantial portion of the increase in private pension plan coverage over the past three decades;

(3) the continued well-being and security of millions of employees, retirees, and their dependents are directly affected by multiemployer pension plans; and

(4)(A) withdrawals of contributing employers from a multiemployer pension plan frequently result in substantially increased funding obligations for employers who continue to contribute to the plan, adversely affecting the plan, its participants and beneficiaries, and labor-management relations, and

(B) in a declining industry, the incidence of employer withdrawals is higher and the adverse effects described in subparagraph (A) are exacerbated.

(b) The Congress further finds that—

(1) it is desirable to modify the current multiemployer plan termination insurance provisions in order to increase the likelihood of protecting plan participants against benefit losses; and

(2) it is desirable to replace the termination insurance program for multiemployer pension plans with an insolvency-based benefit protection program that will enhance the financial soundness of such plans, place primary emphasis on plan continuation, and contain program costs within reasonable limits.

(c) It is hereby declared to be the policy of this Act—

(1) to foster and facilitate interstate commerce,

(2) to alleviate certain problems which tend to discourage the maintenance and growth of multiemployer pension plans,

(3) to provide reasonable protection for the interests of participants and beneficiaries of financially distressed multiemployer pension plans, and

(4) to provide a financially self-sufficient program for the guarantee of employee benefits under multiemployer plans.

TITLE I—AMENDMENTS TO TITLE IV OF THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

SEC. 101. AMENDMENT OF THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.

Whenever in this title an amendment or repeal is expressed in terms of an amendment to or repeal of a section or other provision, the reference is to a section or other provision of the Employee Retirement Income Security Act of 1974.

29 USC 1001 note.

SEC. 102. MULTIEMPLOYER GUARANTEES; AGGREGATE LIMIT ON GUARANTEES.

Subtitle B of title IV is amended by inserting at the end thereof the following new sections:

"MULTIEMPLOYER PLAN BENEFITS GUARANTEED

29 USC 1322a.

"SEC. 4022A. (a) The corporation shall guarantee, in accordance with this section, the payment of all nonforfeitable benefits (other than benefits becoming nonforfeitable solely on account of the termination of a plan) under a multiemployer plan—

29 USC 1321.

"(1) to which section 4021 applies, and

Post, pp. 1259, 1261.

"(2) which is insolvent under section 4245(b) or 4281(d)(2).

"(b)(1)(A) For purposes of this section, a benefit or benefit increase which has been in effect under a plan for less than 60 months is not eligible for the corporation's guarantee. For purposes of this paragraph, any month of any plan year during which the plan was insolvent or terminated (within the meaning of section 4041A(a)(2)) shall not be taken into account.

Post, p. 1216.

"(B) For purposes of this section, a benefit or benefit increase which has been in effect under a plan for less than 60 months before the first day of the plan year for which an amendment reducing the benefit or the benefit increase is taken into account under section 4244A(a)(2) in determining the minimum contribution requirement for the plan year under section 4243(b) is not eligible for the corporation's guarantee.

Post, p. 1257.

Post, p. 1252.

"(2) For purposes of this section—

"(A) the date on which a benefit or a benefit increase under a plan is first in effect is the later of—

"(i) the date on which the documents establishing or increasing the benefit were executed, or

"(ii) the effective date of the benefit or benefit increase;

"(B) the period of time for which a benefit or a benefit increase has been in effect under a successor plan includes the period of time for which the benefit or benefit increase was in effect under a previously established plan; and

29 USC 1321.

"(C) in the case of a plan to which section 4021 did not apply on September 3, 1974, the time periods referred to in this section are computed beginning on the date on which section 4021 first applies to the plan.

"(c)(1) Except as provided in subsection (g), the monthly benefit of a participant or a beneficiary which is guaranteed under this section by the corporation with respect to a plan is the product of—

"(A) 100 percent of the accrual rate up to $5, plus 75 percent of the lesser of—

"(i) $15, or

"(ii) the accrual rate, if any, in excess of $5, and

"(B) the number of the participant's years of credited service.

"(2) Except as provided in paragraph (6) of this subsection and in subsection (g), in applying paragraph (1) with respect to a plan described in paragraph (5)(A), the term '65 percent' shall be substituted in paragraph (1)(A) for the term '75 percent'.

Accrual rate.

"(3) For purposes of this section, the accrual rate is—

"(A) the monthly benefit of the participant or beneficiary which is described in subsection (a) and which is eligible for the corporation's guarantee under subsection (b), except that such benefit shall be—

"(i) no greater than the monthly benefit which would be payable under the plan at normal retirement age in the form of a single life annuity, and

"(ii) determined without regard to any reduction under section 411(a)(3)(E) of the Internal Revenue Code of 1954; *Post*, p. 1287.
divided by

"(B) the participant's years of credited service.

Credited service.

"(4) For purposes of this subsection—

"(A) a year of credited service is a year in which the participant completed—

"(i) a full year of participation in the plan, or

"(ii) any period of service before participation which is credited for purposes of benefit accrual as the equivalent of a full year of participation;

"(B) any year for which the participant is credited for purposes of benefit accrual with a fraction of the equivalent of a full year of participation shall be counted as such a fraction of a year of credited service; and

"(C) years of credited service shall be determined by including service which may otherwise be disregarded by the plan under section 411(a)(3)(E) of the Internal Revenue Code of 1954.

"(5)(A) A plan is described in this subparagraph if—

"(i) the first plan year—

"(I) in which the plan is insolvent under section 4245(b) or 4281(d)(2), and *Post*, p. 1259. *Post*, p. 1261.

"(II) for which benefits are required to be suspended under section 4245, or reduced or suspended under section 4281, until they do not exceed the levels provided in this subsection,

begins before the year 2000; and

"(ii) the plan sponsor has not established to the satisfaction of the corporation that, during the period of 10 consecutive plan years (or of such lesser number of plan years for which the plan was maintained) immediately preceding the first plan year to which the minimum funding standards of section 412 of the Internal Revenue Code of 1954 apply, the total amount of the contributions required under the plan for each plan year was at least equal to the sum of— 26 USC 412.

"(I) the normal cost for that plan year, and

"(II) the interest for the plan year (determined under the plan) on the unfunded past service liability for that plan year, determined as of the beginning of that plan year.

"(B) A plan shall not be considered to be described in subparagraph (A) if—

"(i) it is established to the satisfaction of the corporation that—

"(I) the total amount of the contributions received under the plan for the plan years for which the actuarial valuations (performed during the period described in subparagraph (A)(ii)) were performed was at least equal to the sum described in subparagraph (A)(ii); or

"(II) the rates of contribution to the plan under the collective bargaining agreements negotiated when the findings of such valuations were available were reasonably expected to provide such contributions;

"(ii) the number of actuarial valuations performed during the period described in subparagraph (A)(ii) is—

"(I) at least 2, in any case in which such period consists of more than 6 plan years, and

"(II) at least 1, in any case in which such period consists of 6 or fewer plan years; and

"(iii) if the proposition described in clause (i)(I) is to be established, the plan sponsor certifies that to the best of the plan sponsor's knowledge there is no information available which establishes that the total amount of the contributions received under the plan for any plan year during the period described in subparagraph (A)(ii) for which no valuation was performed is less than the sum described in subparagraph (A)(ii).

"(6) Notwithstanding paragraph (2), in the case of a plan described in paragraph (5)(A), if for any period of 3 consecutive plan years beginning with the first plan year to which the minimum funding standards of section 412 of the Internal Revenue Code of 1954 apply, the value of the assets of the plan for each such plan year is an amount equal to at least 8 times the benefit payments for such plan year—

26 USC 412.

"(A) paragraph (2) shall not apply to such plan; and

"(B) the benefit of a participant or beneficiary guaranteed by the corporation with respect to the plan shall be an amount determined under paragraph (1).

"(d) In the case of a benefit which has been reduced under section 411(a)(3)(E) of the Internal Revenue Code of 1954, the corporation shall guarantee the lesser of—

Post, p. 1287.

"(1) the reduced benefit, or

"(2) the amount determined under subsection (c).

"(e) The corporation shall not guarantee benefits under a multiemployer plan which, under section 4022(b)(6), would not be guaranteed under a single-employer plan.

29 USC 1322.

Study.

"(f)(1) No later than 5 years after the date of the enactment of the Multiemployer Pension Plan Amendments Act of 1980, and at least every fifth year thereafter, the corporation shall—

Ante, p. 1208.

"(A) conduct a study to determine—

"(i) the premiums needed to maintain the basic-benefit guarantee levels for multiemployer plans described in subsection (c), and

"(ii) whether the basic-benefit guarantee levels for multiemployer plans may be increased without increasing the basic-benefit premiums for multiemployer plans under this title; and

"(B) report such determinations to the Committee on Ways and Means and the Committee on Education and Labor of the House of Representatives and to the Committee on Finance and the Committee on Labor and Human Resources of the Senate. Report to congressional committees.

"(2)(A) If the last report described in paragraph (1) indicates that a premium increase is necessary to support the existing basic-benefit guarantee levels for multiemployer plans, the corporation shall transmit to the Committee on Ways and Means and the Committee on Education and Labor of the House of Representatives and to the Committee on Finance and the Committee on Labor and Human Resources of the Senate by March 31 of any calendar year in which congressional action under this subsection is requested— Revised schedules, transmittal to congressional committees.

"(i) a revised schedule of basic-benefit guarantees for multiemployer plans which would be necessary in the absence of an increase in premiums approved in accordance with section 4006(b), *Post*, p. 1266.

"(ii) a revised schedule of basic-benefit premiums for multiemployer plans which is necessary to support the existing basic-benefit guarantees for such plans, and

"(iii) a revised schedule of basic-benefit guarantees for multiemployer plans for which the schedule of premiums necessary is higher than the existing premium schedule for such plans but lower than the revised schedule of premiums for such plans specified in clause (ii), together with such schedule of premiums.

"(B) The revised schedule of increased premiums referred to in subparagraph (A)(ii) or (A)(iii) shall go into effect as approved by the Congress by concurrent resolution.

"(C) If an increase in premiums is not approved, the revised guarantee schedule described in subparagraph (A)(i) shall go into effect on the first day of the second calendar year following the year in which such revised guarantee schedule was submitted to the Congress.

"(3)(A) If the last report described in paragraph (1) indicates that basic-benefit guarantees for multiemployer plans can be increased without increasing the basic-benefit premiums for multiemployer plans under this title, the corporation shall submit to the Committee on Ways and Means and the Committee on Education and Labor of the House of Representatives and to the Committee on Finance and the Committee on Labor and Human Resources of the Senate by March 31 of the calendar year in which congressional action under this paragraph is requested— Revised schedules, submittal to congressional committees.

"(i) a revised schedule of increases in the basic-benefit guarantees which can be supported by the existing schedule of basic-benefit premiums for multiemployer plans, and

"(ii) a revised schedule of basic-benefit premiums sufficient to support the existing basic-benefit guarantees.

"(B) The revised schedules referred to in subparagraph (A)(i) or subparagraph (A)(ii) shall go into effect as approved by the Congress by a concurrent resolution. Congressional approval.

"(4)(A) The succeeding subparagraphs of this paragraph are enacted by the Congress as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they shall be deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of concurrent resolutions (as defined in subparagraph (B)). Such subparagraphs shall supersede other rules only to the extent that they are inconsistent therewith. They are enacted with full recognition of the constitutional right of either Congressional rulemaking power.

House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any rule of that House.

"Concurrent resolution."

"(B) For purposes of this subsection, 'concurrent resolution' means only a concurrent resolution, the matter after the resolving clause of which is as follows: 'That the Congress favors the proposed schedule described in transmitted to the Congress by the Pension Benefit Guaranty Corporation on ', the first blank space therein being filled with 'section 4022A(f)(2)(A)(ii) of the Employee Retirement Income Security Act of 1974', 'section 4022A(f)(2)(A)(iii) of the Employee Retirement Income Security Act of 1974', 'section 4022A(f)(3)(A)(i) of the Employee Retirement Income Security Act of 1974', or 'section 4022A(f)(3)(A)(ii) of the Employee Retirement Income Security Act of 1974' (whichever is applicable), and the second blank space therein being filled with the date on which the corporation's message proposing the revision was submitted.

"(C) The procedure for disposition of a concurrent resolution shall be the procedure described in section 4006(b)(4) through (7).

Post, p. 1266.

"(g)(1) The corporation may guarantee the payment of such other classes of benefits under multiemployer plans, and establish the terms and conditions under which those other classes of benefits are guaranteed, as it determines to be appropriate.

Regulations.

"(2)(A) The corporation shall prescribe regulations to establish a supplemental program to guarantee benefits under multiemployer plans which would be guaranteed under this section but for the limitations in subsection (c). Such regulations shall be proposed by the corporation no later than the end of the 18th calendar month following the date of the enactment of the Multiemployer Pension Plan Amendments Act of 1980. The regulations shall make coverage under the supplemental program available no later than January 1, 1983. Any election to participate in the supplemental program shall be on a voluntary basis, and a plan electing such coverage shall continue to pay the premiums required under section 4006(a)(2)(B) to the revolving fund used pursuant to section 4005 in connection with benefits otherwise guaranteed under this section. Any such election shall be irrevocable, except to the extent otherwise provided by regulations prescribed by the corporation.

Ante, p. 1208.

Post, p. 1264.
29 USC 1305.

"(B) The regulations prescribed under this paragraph shall provide—

"(i) that a plan must elect coverage under the supplemental program within the time permitted by the regulations;

"(ii) unless the corporation determines otherwise, that a plan may not elect supplemental coverage unless the value of the assets of the plan as of the end of the plan year preceding the plan year in which the election must be made is an amount equal to 15 times the total amount of the benefit payments made under the plan for that year; and

"(iii) such other reasonable terms and conditions for supplemental coverage, including funding standards and any other reasonable limitations with respect to plans or benefits covered or to means of program financing, as the corporation determines are necessary and appropriate for a feasible supplemental program consistent with the purposes of this title.

"(3) Any benefits guaranteed under this subsection shall be considered nonbasic benefits for purposes of this title.

"(4)(A) No revised schedule of premiums under this subsection, after the initial schedule, shall go into effect unless—

Revised schedule, submittal to Congress.

"(i) the revised schedule is submitted to the Congress, and

"(ii) a concurrent resolution described in subparagraph (B) is not adopted before the close of the 60th legislative day after such schedule is submitted to the Congress.

Concurrent resolution.

"(B) For purposes of subparagraph (A), a concurrent resolution described in this subparagraph is a concurrent resolution the matter after the resolving clause of which is as follows: 'That the Congress disapproves the revised premium schedule transmitted to the Congress by the Pension Benefit Guaranty Corporation under section 4022A(g)(4) of the Employee Retirement Income Security Act of 1974 on .', the blank space therein being filled with the date on which the revised schedule was submitted.

"Legislative day."

"(C) For purposes of subparagraph (A), the term 'legislative day' means any calendar day other than a day on which either House is not in session because of a sine die adjournment or an adjournment of more than 3 days to a day certain.

"(D) The procedure for disposition of a concurrent resolution described in subparagraph (B) shall be the procedure described in paragraphs (4) through (7) of section 4006(b).

Post, p. 1266.

"(5) Regulations prescribed by the corporation to carry out the provisions of this subsection, may, to the extent provided therein, supersede the requirements of sections 4245, 4261, and 4281, and the requirements of section 418E of the Internal Revenue Code of 1954, but only with respect to benefits guaranteed under this subsection.

Post, pp. 1259, 1261.
Post, p. 1282.

"(h)(1) Except as provided in paragraph (3), subsections (b) and (c) shall not apply with respect to the nonforfeitable benefits accrued as of July 29, 1980, with respect to a participant or beneficiary under a multiemployer plan—

"(1) who is in pay status on July 29, 1980, or

"(2) who is within 36 months of the normal retirement age and has a nonforfeitable right to a pension as of that date.

"(2) The benefits described in paragraph (1) shall be guaranteed by the corporation in the same manner and to the same extent as benefits are guaranteed by the corporation under section 4022 (without regard to this section).

29 USC 1322.

"(3) This subsection does not apply with respect to a plan for plan years following a plan year—

"(A) in which the plan has terminated within the meaning of section 4041A(a)(2), or

Post, p. 1216.

"(B) in which it is determined by the corporation that substantially all the employers have withdrawn from the plan pursuant to an agreement or arrangement to withdraw.

"AGGREGATE LIMIT ON BENEFITS GUARANTEED

29 USC 1322b.
29 USC 1322.

"SEC. 4022B. (a) Notwithstanding sections 4022 and 4022A, no person shall receive from the corporation pursuant to a guarantee by the corporation of basic benefits with respect to a participant under all multiemployer and single employer plans an amount, or amounts, with an actuarial value which exceeds the actuarial value of a monthly benefit in the form of a life annuity commencing at age 65 equal to the amount determined under section 4022(b)(3)(B) as of the date of the last plan termination.

"(b) For purposes of this section—

"(1) the receipt of benefits under a multiemployer plan receiving financial assistance from the corporation shall be considered the receipt of amounts from the corporation pursuant to a guarantee by the corporation of basic benefits except to the extent provided in regulations prescribed by the corporation, and

Plan termination.

"(2) the date on which a multiemployer plan, whether or not terminated, begins receiving financial assistance from the corporation shall be considered a date of plan termination.".

SEC. 103. TERMINATION FOR MULTIEMPLOYER PLANS.

Subtitle C of title IV is amended by inserting after section 4041 the following new section:

"TERMINATION OF MULTIEMPLOYER PLANS

29 USC 1341a.

"SEC. 4041A. (a) Termination of a multiemployer plan under this section occurs as a result of—

"(1) the adoption after the date of enactment of the Multiemployer Pension Plan Amendments Act of 1980 of a plan amendment which provides that participants will receive no credit for any purpose under the plan for service with any employer after the date specified by such amendment;

Ante, p. 1208.

"(2) the withdrawal of every employer from the plan, within the meaning of section 4203, or the cessation of the obligation of all employers to contribute under the plan; or

Post, p. 1218.

"(3) the adoption of an amendment to the plan which causes the plan to become a plan described in section 4021(b)(1).

29 USC 1321.

"(b)(1) The date on which a plan terminates under paragraph (1) or (3) of subsection (a) is the later of—

"(A) the date on which the amendment is adopted, or

"(B) the date on which the amendment takes effect.

"(2) The date on which a plan terminates under paragraph (2) of subsection (a) is the earlier of—

"(A) the date on which the last employer withdraws, or

"(B) the first day of the first plan year for which no employer contributions were required under the plan.

"(c) Except as provided in subsection (f)(1), the plan sponsor of a plan which terminates under paragraph (2) of subsection (a) shall—

"(1) limit the payment of benefits to benefits which are nonforfeitable under the plan as of the date of the termination, and

"(2) pay benefits attributable to employer contributions, other than death benefits, only in the form of an annuity, unless the plan assets are distributed in full satisfaction of all nonforfeitable benefits under the plan.

"(d) The plan sponsor of a plan which terminates under paragraph (2) of subsection (a) shall reduce benefits and suspend benefit payments in accordance with section 4281.

Post, p. 1261.

"(e) In the case of a plan which terminates under paragraph (1) or (3) of subsection (a), the rate of an employer's contributions under the plan for each plan year beginning on or after the plan termination date shall equal or exceed the highest rate of employer contributions at which the employer had an obligation to contribute under the plan in the 5 preceding plan years ending on or before the plan termination date, unless the corporation approves a reduction in the rate based on a finding that the plan is or soon will be fully funded.

Benefits, payment.

"(f)(1) The plan sponsor of a terminated plan may authorize the payment other than in the form of an annuity of a participant's entire nonforfeitable benefit attributable to employer contributions, other than a death benefit, if the value of the entire nonforfeitable benefit does not exceed $1,750. The corporation may authorize the payment of benefits under the terms of a terminated plan other than nonforfeitable benefits, or the payment other than in the form of an

annuity of benefits having a value greater than $1,750, if the corporation determines that such payment is not adverse to the interest of the plan's participants and beneficiaries generally and does not unreasonably increase the corporation's risk of loss with respect to the plan.

"(2) The corporation may prescribe reporting requirements for terminated plans, and rules and standards for the administration of such plans, which the corporation considers appropriate to protect the interests of plan participants and beneficiaries or to prevent unreasonable loss to the corporation.". Reporting requirements.

SEC. 104. EMPLOYER WITHDRAWALS; MERGER OR TRANSFER OF PLAN ASSETS OR LIABILITIES; REORGANIZATION; MINIMUM CONTRIBUTION REQUIREMENT FOR MULTIEMPLOYER PLANS; FINANCIAL ASSISTANCE; BENEFITS AFTER TERMINATION; ENFORCEMENT.

Title IV is amended—

(1) by striking out the heading for subtitle E and inserting in lieu thereof the following:

"Subtitle F—Transition Rules and Effective Dates";

and

(2) by inserting after subtitle D the following new subtitle:

"Subtitle E—Special Provisions for Multiemployer Plans

"PART 1—EMPLOYER WITHDRAWALS

"WITHDRAWAL LIABILITY ESTABLISHED

"SEC. 4201. (a) If an employer withdraws from a multiemployer plan in a complete withdrawal or a partial withdrawal, then the employer is liable to the plan in the amount determined under this part to be the withdrawal liability. 29 USC 1381.

"(b) For purposes of subsection (a)—

"(1) The withdrawal liability of an employer to a plan is the amount determined under section 4211 to be the allocable amount of unfunded vested benefits, adjusted—

"(A) first, by any de minimis reduction applicable under section 4209,

"(B) next, in the case of a partial withdrawal, in accordance with section 4206,

"(C) then, to the extent necessary to reflect the limitation on annual payments under section 4219(c)(1)(B), and

"(D) finally, in accordance with section 4225. *Post*, p. 1243.

"(2) The term 'complete withdrawal' means a complete withdrawal described in section 4203. "Complete withdrawal."

"(3) The term 'partial withdrawal' means a partial withdrawal described in section 4205. "Partial withdrawal."

"DETERMINATION AND COLLECTION OF LIABILITY; NOTIFICATION OF EMPLOYER

29 USC 1382.

"SEC. 4202. When an employer withdraws from a multiemployer plan, the plan sponsor, in accordance with this part, shall—

"(1) determine the amount of the employer's withdrawal liability,

"(2) notify the employer of the amount of the withdrawal liability, and

"(3) collect the amount of the withdrawal liability from the employer.

"COMPLETE WITHDRAWAL

29 USC 1383.

"SEC. 4203. (a) For purposes of this part, a complete withdrawal from a multiemployer plan occurs when an employer—

"(1) permanently ceases to have an obligation to contribute under the plan, or

"(2) permanently ceases all covered operations under the plan.

"(b)(1) Notwithstanding subsection (a), in the case of an employer that has an obligation to contribute under a plan for work performed in the building and construction industry, a complete withdrawal occurs only as described in paragraph (2), if—

"(A) substantially all the employees with respect to whom the employer has an obligation to contribute under the plan perform work in the building and construction industry, and

"(B) the plan—

"(i) primarily covers employees in the building and construction industry, or

"(ii) is amended to provide that this subsection applies to employers described in this paragraph.

"(2) A withdrawal occurs under this paragraph if—

"(A) an employer ceases to have an obligation to contribute under the plan, and

"(B) the employer—

"(i) continues to perform work in the jurisdiction of the collective bargaining agreement of the type for which contributions were previously required, or

"(ii) resumes such work within 5 years after the date on which the obligation to contribute under the plan ceases, and does not renew the obligation at the time of the resumption.

"(3) In the case of a plan terminated by mass withdrawal (within the meaning of section 4041A(a)(2)), paragraph (2) shall be applied by substituting '3 years' for '5 years' in subparagraph (B)(ii).

Ante, p. 1216.

"(c)(1) Notwithstanding subsection (a), in the case of an employer that has an obligation to contribute under a plan for work performed in the entertainment industry, primarily on a temporary or project-by-project basis, if the plan primarily covers employees in the entertainment industry, a complete withdrawal occurs only as described in subsection (b)(2) applied by substituting 'plan' for 'collective bargaining agreement' in subparagraph (B)(i) thereof.

"Entertainment industry."

"(2) For purposes of this subsection, the term 'entertainment industry' means—

"(A) theater, motion picture (except to the extent provided in regulations prescribed by the corporation), radio, television, sound or visual recording, music, and dance, and

"(B) such other entertainment activities as the corporation may determine to be appropriate.

"(3) The corporation may by regulation exclude a group or class of employers described in the preceding sentence from the application of this subsection if the corporation determines that such exclusion is necessary—

"(A) to protect the interest of the plan's participants and beneficiaries, or

"(B) to prevent a significant risk of loss to the corporation with respect to the plan.

"(4) A plan may be amended to provide that this subsection shall not apply to a group or class of employers under the plan.

"(d)(1) Notwithstanding subsection (a), in the case of an employer who—

"(A) has an obligation to contribute under a plan described in paragraph (2) primarily for work described in such paragraph, and

"(B) does not continue to perform work within the jurisdiction of the plan,

a complete withdrawal occurs only as described in paragraph (3).

"(2) A plan is described in this paragraph if substantially all of the contributions required under the plan are made by employers primarily engaged in the long and short haul trucking industry, the household goods moving industry, or the public warehousing industry.

"(3) A withdrawal occurs under this paragraph if—

"(A) an employer permanently ceases to have an obligation to contribute under the plan or permanently ceases all covered operations under the plan, and

"(B) either—

"(i) the corporation determines that the plan has suffered substantial damage to its contribution base as a result of such cessation, or

"(ii) the employer fails to furnish a bond issued by a corporate surety company that is an acceptable surety for purposes of section 412, or an amount held in escrow by a bank or similar financial institution satisfactory to the plan, in an amount equal to 50 percent of the withdrawal liability of the employer. 29 USC 1112.

"(4) If, after an employer furnishes a bond or escrow to a plan under paragraph (3)(B)(ii), the corporation determines that the cessation of the employer's obligation to contribute under the plan (considered together with any cessations by other employers), or cessation of covered operations under the plan, has resulted in substantial damage to the contribution base of the plan, the employer shall be treated as having withdrawn from the plan on the date on which the obligation to contribute or covered operations ceased, and such bond or escrow shall be paid to the plan. The corporation shall not make a determination under this paragraph more than 60 months after the date on which such obligation to contribute or covered operations ceased. Bond or escrow.

"(5) If the corporation determines that the employer has no further liability under the plan either—

"(A) because it determines that the contribution base of the plan has not suffered substantial damage as a result of the cessation of the employer's obligation to contribute or cessation of covered operations (considered together with any cessation of contribution obligation, or of covered operations, with respect to other employers), or

"(B) because it may not make a determination under paragraph (4) because of the last sentence thereof,

then the bond shall be cancelled or the escrow refunded.

"(6) Nothing in this subsection shall be construed as a limitation on the amount of the withdrawal liability of any employer.

"(e) For purposes of this part, the date of a complete withdrawal is the date of the cessation of the obligation to contribute or the cessation of covered operations.

"(f)(1) The corporation may prescribe regulations under which plans in industries other than the construction or entertainment industries may be amended to provide for special withdrawal liability rules similar to the rules described in subsections (b) and (c).

"(2) Regulations under paragraph (1) shall permit use of special withdrawal liability rules—

"(A) only in industries (or portions thereof) in which, as determined by the corporation, the characteristics that would make use of such rules appropriate are clearly shown, and

"(B) only if the corporation determines, in each instance in which special withdrawal liability rules are permitted, that use of such rules will not pose a significant risk to the corporation under this title.

"SALE OF ASSETS

29 USC 1384.

"SEC. 4204. (a)(1) A complete or partial withdrawal of an employer (hereinafter in this section referred to as the 'seller') under this section does not occur solely because, as a result of a bona fide, arm's-length sale of assets to an unrelated party (hereinafter in this section referred to as the 'purchaser'), the seller ceases covered operations or ceases to have an obligation to contribute for such operations, if—

"(A) the purchaser has an obligation to contribute to the plan with respect to the operations for substantially the same number of contribution base units for which the seller had an obligation to contribute to the plan;

Bond or escrow.

"(B) the purchaser provides to the plan for a period of 5 plan years commencing with the first plan year beginning after the sale of assets, a bond issued by a corporate surety company that is an acceptable surety for purposes of section 412 of this Act, or an amount held in escrow by a bank or similar financial institution satisfactory to the plan, in an amount equal to the greater of—

29 USC 1112.

"(i) the average annual contribution required to be made by the seller with respect to the operations under the plan for the 3 plan years preceding the plan year in which the sale of the employer's assets occurs, or

"(ii) the annual contribution that the seller was required to make with respect to the operations under the plan for the last plan year before the plan year in which the sale of the assets occurs,

which bond or escrow shall be paid to the plan if the purchaser withdraws from the plan, or fails to make a contribution to the plan when due, at any time during the first 5 plan years beginning after the sale; and

Withdrawal liability.

"(C) the contract for sale provides that, if the purchaser withdraws in a complete withdrawal, or a partial withdrawal with respect to operations, during such first 5 plan years, the seller is secondarily liable for any withdrawal liability it would have had to the plan with respect to the operations (but for this section) if the liability of the purchaser with respect to the plan is not paid.

"(2) If the purchaser—

"(A) withdraws before the last day of the fifth plan year beginning after the sale, and

"(B) fails to make any withdrawal liability payment when due,

then the seller shall pay to the plan an amount equal to the payment that would have been due from the seller but for this section.

Distribution or liquidation.

"(3)(A) If all, or substantially all, of the seller's assets are distributed, or if the seller is liquidated before the end of the 5 plan year period described in paragraph (1)(C), then the seller shall provide a bond or amount in escrow equal to the present value of the withdrawal liability the seller would have had but for this subsection.

"(B) If only a portion of the seller's assets are distributed during such period, then a bond or escrow shall be required, in accordance with regulations prescribed by the corporation, in a manner consistent with subparagraph (A).

"(4) The liability of the party furnishing a bond or escrow under this subsection shall be reduced, upon payment of the bond or escrow to the plan, by the amount thereof.

Purchaser liability.

"(b)(1) For the purposes of this part, the liability of the purchaser shall be determined as if the purchaser had been required to contribute to the plan in the year of the sale and the 4 plan years preceding the sale the amount the seller was required to contribute for such operations for such 5 plan years.

"(2) If the plan is in reorganization in the plan year in which the sale of assets occurs, the purchaser shall furnish a bond or escrow in an amount equal to 200 percent of the amount described in subsection (a)(1)(B).

Individual or class variances.

"(c) The corporation may by regulation vary the standards in subparagraphs (B) and (C) of subsection (a)(1) if the variance would more effectively or equitably carry out the purposes of this title. Before it promulgates such regulations, the corporation may grant individual or class variances or exemptions from the requirements of such subparagraphs if the particular case warrants it. Before granting such an individual or class variance or exemption, the corporation—

Publication in Federal Register.

"(1) shall publish notice in the Federal Register of the pendency of the variance or exemption,

"(2) shall require that adequate notice be given to interested persons, and

"(3) shall afford interested persons an opportunity to present their views.

"Unrelated party."

"(d) For purposes of this section, the term 'unrelated party' means a purchaser or seller who does not bear a relationship to the seller or purchaser, as the case may be, that is described in section 267(b) of the Internal Revenue Code of 1954, or that is described in regulations prescribed by the corporation applying principles similar to the principles of such section.

26 USC 267.

"PARTIAL WITHDRAWALS

29 USC 1385.

"SEC. 4205. (a) Except as otherwise provided in this section, there is a partial withdrawal by an employer from a plan on the last day of a plan year if for such plan year—

"(1) there is a 70-percent contribution decline, or

"(2) there is a partial cessation of the employer's contribution obligation.

"(b) For purposes of subsection (a)—

"(1)(A) There is a 70-percent contribution decline for any plan year if during each plan year in the 3-year testing period the employer's contribution base units do not exceed 30 percent of the employer's contribution base units for the high base year.

"(B) For purposes of subparagraph (A)—

"3-year testing period."

"(i) The term '3-year testing period' means the period consisting of the plan year and the immediately preceding 2 plan years.

"(ii) The number of contribution base units for the high base year is the average number of such units for the 2 plan years for which the employer's contribution base units were the highest within the 5 plan years immediately preceding the beginning of the 3-year testing period.

Employer's contribution obligation, partial cessation.

"(2)(A) There is a partial cessation of the employer's contribution obligation for the plan year if, during such year—

"(i) the employer permanently ceases to have an obligation to contribute under one or more but fewer than all collective bargaining agreements under which the employer has been obligated to contribute under the plan but continues to perform work in the jurisdiction of the collective bargaining agreement of the type for which contributions were previously required or transfers such work to another location, or

"(ii) an employer permanently ceases to have an obligation to contribute under the plan with respect to work performed at one or more but fewer than all of its facilities, but continues to perform work at the facility of the type for which the obligation to contribute ceased.

"(B) For purposes of subparagraph (A), a cessation of obligations under a collective bargaining agreement shall not be considered to have occurred solely because, with respect to the same plan, one agreement that requires contributions to the plan has been substituted for another agreement.

Retail food industry employees.

"(c)(1) In the case of a plan in which a majority of the covered employees are employed in the retail food industry, the plan may be amended to provide that this section shall be applied with respect to such plan—

"(A) by substituting '35 percent' for '70 percent' in subsections (a) and (b), and

"(B) by substituting '65 percent' for '30 percent' in subsection (b).

"(2) Any amendment adopted under paragraph (1) shall provide rules for the equitable reduction of withdrawal liability in any case in which the number of the plan's contribution base units, in the 2 plan years following the plan year of withdrawal of the employer, is higher than such number immediately after the withdrawal.

"(3) Section 4208 shall not apply to a plan which has been amended under paragraph (1).

26 USC 404.

"(d) In the case of a plan described in section 404(c) of the Internal Revenue Code of 1954, or a continuation thereof, the plan may be amended to provide rules setting forth other conditions consistent with the purposes of this Act under which an employer has liability for partial withdrawal.

"ADJUSTMENT FOR PARTIAL WITHDRAWAL

29 USC 1386.

"SEC. 4206. (a) The amount of an employer's liability for a partial withdrawal, before the application of sections 4219(c)(1) and 4225, is equal to the product of—

"(1) the amount determined under section 4211, and adjusted under section 4209 if appropriate, determined as if the employer had withdrawn from the plan in a complete withdrawal—

"(A) on the date of the partial withdrawal, or

"(B) in the case of a partial withdrawal described in section 4205(a)(1) (relating to 70-percent contribution decline), on the last day of the first plan year in the 3-year testing period,

multiplied by

"(2) a fraction which is 1 minus a fraction—

"(A) the numerator of which is the employer's contribution base units for the plan year following the plan year in which the partial withdrawal occurs, and

"(B) the denominator of which is the average of the employer's contribution base units for—

"(i) except as provided in clause (ii), the 5 plan years immediately preceding the plan year in which the partial withdrawal occurs, or

"(ii) in the case of a partial withdrawal described in section 4205(a)(1) (relating to 70-percent contribution decline), the 5 plan years immediately preceding the beginning of the 3-year testing period.

"(b)(1) In the case of an employer that has withdrawal liability for a partial withdrawal from a plan, any withdrawal liability of that employer for a partial or complete withdrawal from that plan in a subsequent plan year shall be reduced by the amount of any partial withdrawal liability (reduced by any abatement or reduction of such liability) of the employer with respect to the plan for a previous plan year.

"(2) The corporation shall prescribe such regulations as may be necessary to provide for proper adjustments in the reduction provided by paragraph (1) for— Regulations.

"(A) changes in unfunded vested benefits arising after the close of the prior year for which partial withdrawal liability was determined,

"(B) changes in contribution base units occurring after the close of the prior year for which partial withdrawal liability was determined, and

"(C) any other factors for which it determines adjustment to be appropriate,

so that the liability for any complete or partial withdrawal in any subsequent year (after the application of the reduction) properly reflects the employer's share of liability with respect to the plan.

"REDUCTION OR WAIVER OF COMPLETE WITHDRAWAL LIABILITY

"SEC. 4207. (a) The corporation shall provide by regulation for the reduction or waiver of liability for a complete withdrawal in the event that an employer who has withdrawn from a plan subsequently resumes covered operations under the plan or renews an obligation to contribute under the plan, to the extent that the corporation determines that reduction or waiver of withdrawal liability is consistent with the purposes of this Act. Regulations. 29 USC 1387.

"(b) The corporation shall prescribe by regulation a procedure and standards for the amendment of plans to provide alternative rules for the reduction or waiver of liability for a complete withdrawal in the event that an employer who has withdrawn from the plan subsequently resumes covered operations or renews an obligation to

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contribute under the plan. The rules may apply only to the extent that the rules are consistent with the purposes of this Act.

"REDUCTION OF PARTIAL WITHDRAWAL LIABILITY

29 USC 1388.

"SEC. 4208. (a)(1) If, for any 2 consecutive plan years following the plan year in which an employer has partially withdrawn from a plan under section 4205(a)(1) (referred to elsewhere in this section as the 'partial withdrawal year'), the number of contribution base units with respect to which the employer has an obligation to contribute under the plan for each such year is not less than 90 percent of the total number of contribution base units with respect to which the employer had an obligation to contribute under the plan for the high base year (within the meaning of section 4205(b)(1)(B)(ii)), then the employer shall have no obligation to make payments with respect to such partial withdrawal (other than delinquent payments) for plan years beginning after the second consecutive plan year following the partial withdrawal year.

Bonds.

"(2)(A) For any plan year for which the number of contribution base units with respect to which an employer who has partially withdrawn under section 4205(a)(1) has an obligation to contribute under the plan equals or exceeds the number of units for the highest year determined under paragraph (1) without regard to '90 percent of', the employer may furnish (in lieu of payment of the partial withdrawal liability determined under section 4206) a bond to the plan in the amount determined by the plan sponsor (not exceeding 50 percent of the annual payment otherwise required).

"(B) If the plan sponsor determines under paragraph (1) that the employer has no further liability to the plan for the partial withdrawal, then the bond shall be cancelled.

"(C) If the plan sponsor determines under paragraph (1) that the employer continues to have liability to the plan for the partial withdrawal, then—

"(i) the bond shall be paid to the plan,

"(ii) the employer shall immediately be liable for the outstanding amount of liability due with respect to the plan year for which the bond was posted, and

"(iii) the employer shall continue to make the partial withdrawal liability payments as they are due.

"(b) If—

"(1) for any 2 consecutive plan years following a partial withdrawal under section 4205(a)(1), the number of contribution base units with respect to which the employer has an obligation to contribute for each such year exceeds 30 percent of the total number of contribution base units with respect to which the employer had an obligation to contribute for the high base year (within the meaning of section 4205(b)(1)(B)(ii), and

"(2) the total number of contribution base units with respect to which all employers under the plan have obligations to contribute in each of such 2 consecutive years is not less than 90 percent of the total number of contribution base units for which all employers had obligations to contribute in the partial withdrawal plan year;

then, the employer shall have no obligation to make payments with respect to such partial withdrawal (other than delinquent payments) for plan years beginning after the second such consecutive plan year.

"(c) In any case in which, in any plan year following a partial withdrawal under section 4205(a)(1), the number of contribution base

units with respect to which the employer has an obligation to contribute for such year equals or exceeds 110 percent (or such other percentage as the plan may provide by amendment and which is not prohibited under regulations prescribed by the corporation) of the number of contribution base units with respect to which the employer had an obligation to contribute in the partial withdrawal year, then the amount of the employer's partial withdrawal liability payment for such year shall be reduced pro rata, in accordance with regulations prescribed by the corporation.

"(d)(1) An employer to whom section 4202(b) (relating to the building and construction industry) applies is liable for a partial withdrawal only if the employer's obligation to contribute under the plan is continued for no more than an insubstantial portion of its work in the craft and area jurisdiction of the collective bargaining agreement of the type for which contributions are required.

"(2) An employer to whom section 4202(c) (relating to the entertainment industry) applies shall have no liability for a partial withdrawal except under the conditions and to the extent prescribed by the corporation by regulation.

"(e)(1) The corporation may prescribe regulations providing for the reduction or elimination of partial withdrawal liability under any conditions with respect to which the corporation determines that reduction or elimination of partial withdrawal liability is consistent with the purposes of this Act.

"(2) Under such regulations, reduction of withdrawal liability shall be provided only with respect to subsequent changes in the employer's contributions for the same operations, or under the same collective bargaining agreement, that gave rise to the partial withdrawal, and changes in the employer's contribution base units with respect to other facilities or other collective bargaining agreements shall not be taken into account.

Regulations.

"(3) The corporation shall prescribe by regulation a procedure by which a plan may by amendment adopt rules for the reduction or elimination of partial withdrawal liability under any other conditions, subject to the approval of the corporation based on its determination that adoption of such rules by the plan is consistent with the purposes of this Act.

"DE MINIMIS RULE

Unfunded vested benefits.
29 USC 1389.

"SEC. 4209. (a) Except in the case of a plan amended under subsection (b), the amount of the unfunded vested benefits allocable under section 4211 to an employer who withdraws from a plan shall be reduced by the smaller of—

"(1) ¾ of 1 percent of the plan's unfunded vested obligations (determined as of the end of the plan year ending before the date of withdrawal), or

"(2) $50,000,

reduced by the amount, if any, by which the unfunded vested benefits allowable to the employer, determined without regard to this subsection, exceeds $100,000.

"(b) A plan may be amended to provide for the reduction of the amount determined under section 4211 by not more than the greater of—

"(1) the amount determined under subsection (a), or

"(2) the lesser of—

"(A) the amount determined under subsection (a)(1), or

"(B) $100,000,

reduced by the amount, if any, by which the amount determined under section 4211 for the employer, determined without regard to this subsection, exceeds $150,000.

"(c) This section does not apply—

"(1) to an employer who withdraws in a plan year in which substantially all employers withdraw from the plan, or

"(2) in any case in which substantially all employers withdraw from the plan during a period of one or more plan years pursuant to an agreement or arrangement to withdraw, to an employer who withdraws pursuant to such agreement or arrangement.

"(d) In any action or proceeding to determine or collect withdrawal liability, if substantially all employers have withdrawn from a plan within a period of 3 plan years, an employer who has withdrawn from such plan during such period shall be presumed to have withdrawn from the plan pursuant to an agreement or arrangement, unless the employer proves otherwise by a preponderance of the evidence.

"NO WITHDRAWAL LIABILITY FOR CERTAIN TEMPORARY CONTRIBUTION OBLIGATION PERIODS

29 USC 1390.

"SEC. 4210. (a) An employer who withdraws from a plan in complete or partial withdrawal is not liable to the plan if the employer—

"(1) first had an obligation to contribute to the plan after the date of the enactment of the Multiemployer Pension Plan Amendments Act of 1980,

Ante, p. 1208.

"(2) had an obligation to contribute to the plan for no more than the lesser of—

"(A) 6 consecutive plan years preceding the date on which the employer withdraws, or

"(B) the number of years required for vesting under the plan,

"(3) was required to make contributions to the plan for each such plan year in an amount equal to less than 2 percent of the sum of all employer contributions made to the plan for each such year, and

"(4) has never avoided withdrawal liability because of the application of this section with respect to the plan.

"(b) Subsection (a) shall apply to an employer with respect to a plan only if—

"(1) the plan is not a plan which primarily covers employees in the building and construction industry;

"(2) the plan is amended to provide that subsection (a) applies;

"(3) the plan provides, or is amended to provide, that the reduction under section 411(a)(3)(E) of the Internal Revenue Code of 1954 applies with respect to the employees of the employer; and

Post, p. 1287.

"(4) the ratio of the assets of the plan for the plan year preceding the first plan year for which the employer was required to contribute to the plan to the benefit payments made during that plan year was at least 8 to 1.

"METHODS FOR COMPUTING WITHDRAWAL LIABILITY

Unfunded vested benefits.
29 USC 1391.

"SEC. 4211. (a) The amount of the unfunded vested benefits allocable to an employer that withdraws from a plan shall be determined in accordance with subsection (b), (c), or (d) of this section.

"(b)(1) Except as provided in subsections (c) and (d), the amount of unfunded vested benefits allocable to an employer that withdraws is the sum of— Allocation determination.

"(A) the employer's proportional share of the unamortized amount of the change in the plan's unfunded vested benefits for plan years ending after April 28, 1980, as determined under paragraph (2),

"(B) the employer's proportional share, if any, of the unamortized amount of the plan's unfunded vested benefits at the end of the plan year ending before April 29, 1980, as determined under paragraph (3); and

"(C) the employer's proportional share of the unamortized amounts of the reallocated unfunded vested benefits (if any) as determined under paragraph (4).

If the sum of the amounts determined with respect to an employer under paragraphs (2), (3), and (4) is negative, the unfunded vested benefits allocable to the employer shall be zero.

"(2)(A) An employer's proportional share of the unamortized amount of the change in the plan's unfunded vested benefits for plan years ending after April 28, 1980, is the sum of the employer's proportional shares of the unamortized amount of the change in unfunded vested benefits for each plan year in which the employer has an obligation to contribute under the plan ending—

"(i) after such date, and

"(ii) before the plan year in which the withdrawal of the employer occurs.

"(B) The change in a plan's unfunded vested benefits for a plan year is the amount by which—

"(i) the unfunded vested benefits at the end of the plan year; exceeds

"(ii) the sum of—

"(I) the unamortized amount of the unfunded vested benefits for the last plan year ending before April 29, 1980, and

"(II) the sum of the unamortized amounts of the change in unfunded vested benefits for each plan year ending after April 28, 1980, and preceding the plan year for which the change is determined.

"(C) The unamortized amount of the change in a plan's unfunded vested benefits with respect to a plan year is the change in unfunded vested benefits for the plan year, reduced by 5 percent of such change for each succeeding plan year.

"(D) The unamortized amount of the unfunded vested benefits for the last plan year ending before April 29, 1980, is the amount of the unfunded vested benefits as of the end of that plan year reduced by 5 percent of such amount for each succeeding plan year.

"(E) An employer's proportional share of the unamortized amount of a change in unfunded vested benefits is the product of—

"(i) the unamortized amount of such change (as of the end of the plan year preceding the plan year in which the employer withdraws); multiplied by

"(ii) a fraction—

"(I) the numerator of which is the sum of the contributions required to be made under the plan by the employer for the year in which such change arose and for the 4 preceding plan years, and

"(II) the denominator of which is the sum for the plan year in which such change arose and the 4 preceding plan years of all contributions made by employers who had an obligation

to contribute under the plan for the plan year in which such change arose reduced by the contributions made in such years by employers who had withdrawn from the plan in the year in which the change arose.

"(3) An employer's proportional share of the unamortized amount of the plan's unfunded vested benefits for the last plan year ending before April 29, 1980, is the product of—

"(A) such unamortized amount; multiplied by—

"(B) a fraction—

"(i) the numerator of which is the sum of all contributions required to be made by the employer under the plan for the most recent 5 plan years ending before April 29, 1980, and

"(ii) the denominator of which is the sum of all contributions made for the most recent 5 plan years ending before April 29, 1980, by all employers—

"(I) who had an obligation to contribute under the plan for the first plan year ending on or after such date, and

"(II) who had not withdrawn from the plan before such date.

"(4)(A) An employer's proportional share of the unamortized amount of the reallocated unfunded vested benefits is the sum of the employer's proportional shares of the unamortized amount of the reallocated unfunded vested benefits for each plan year ending before the plan year in which the employer withdrew from the plan.

"(B) Except as otherwise provided in regulations prescribed by the corporation, the reallocated unfunded vested benefits for a plan year is the sum of—

"(i) any amount which the plan sponsor determines in that plan year to be uncollectible for reasons arising out of cases or proceedings under title 11, United States Code, or similar proceedings.

11 USC 101.

"(ii) any amount which the plan sponsor determines in that plan year will not be assessed as a result of the operation of section 4209, 4219(c)(1)(B), or section 4225 against an employer to whom a notice described in section 4219 has been sent, and

"(iii) any amount which the plan sponsor determines to be uncollectible or unassessable in that plan year for other reasons under standards not inconsistent with regulations prescribed by the corporation.

"(C) The unamortized amount of the reallocated unfunded vested benefits with respect to a plan year is the reallocated unfunded vested benefits for the plan year, reduced by 5 percent of such reallocated unfunded vested benefits for each succeeding plan year.

"(D) An employer's proportional share of the unamortized amount of the reallocated unfunded vested benefits with respect to a plan year is the product of—

"(i) the unamortized amount of the reallocated unfunded vested benefits (as of the end of the plan year preceding the plan year in which the employer withdraws); multiplied by

"(ii) the fraction defined in paragraph (2)(E)(ii).

Multiemployer plan, amendment procedures.

"(c)(1) A multiemployer plan, other than a plan which primarily covers employees in the building and construction industry, may be amended to provide that the amount of unfunded vested benefits allocable to an employer that withdraws from the plan is an amount determined under paragraph (2), (3), (4), or (5) of this subsection, rather than under subsection (b) or (d). A plan described in section 4203(b)(1)(B)(i) (relating to the building and construction industry)

may be amended, to the extent provided in regulations prescribed by the corporation, to provide that the amount of the unfunded vested benefits allocable to an employer not described in section 4203(b)(1)(A) shall be determined in a manner different from that provided in subsection (b).

"(2)(A) The amount of the unfunded vested benefits allocable to any employer under this paragraph is the sum of the amounts determined under subparagraphs (B) and (C).

"(B) The amount determined under this subparagraph is the product of—

"(i) the plan's unfunded vested benefits as of the end of the last plan year ending before April 29, 1980, reduced as if those obligations were being fully amortized in level annual installments over 15 years beginning with the first plan year ending on or after such date; multiplied by

"(ii) a fraction—

"(I) the numerator of which is the sum of all contributions required to be made by the employer under the plan for the last 5 plan years ending before April 29, 1980, and

"(II) the denominator of which is the sum of all contributions made for the last 5 plan years ending before April 29, 1980, by all employers who had an obligation to contribute under the plan for the first plan year ending after April 28, 1980, and who had not withdrawn from the plan before such date.

"(C) The amount determined under this subparagraph is the product of—

"(i) an amount equal to—

"(I) the plan's unfunded vested benefits as of the end of the plan year preceding the plan year in which the employer withdraws, less

"(II) the sum of the value as of such date of all outstanding claims for withdrawal liability which can reasonably be expected to be collected, with respect to employers withdrawing before such plan year, and that portion of the amount determined under subparagraph (B)(i) which is allocable to employers who have an obligation to contribute under the plan in the plan year preceding the plan year in which the employer withdraws and who also had an obligation to contribute under the plan for the first plan year ending after April 28, 1980; multiplied by

"(ii) a fraction—

"(I) the numerator of which is the total amount required to be contributed under the plan by the employer for the last 5 plan years ending before the date on which the employer withdraws, and

"(II) the denominator of which is the total amount contributed under the plan by all employers for the last 5 plan years ending before the date on which the employer withdraws, increased by the amount of any employer contributions owed with respect to earlier periods which were collected in those plan years, and decreased by any amount contributed by an employer who withdrew from the plan under this part during those plan years.

"(D) The corporation may by regulation permit adjustments in any denominator under this section, consistent with the purposes of this title, where such adjustment would be appropriate to ease administrative burdens of plan sponsors in calculating such denominators.

"(3) The amount of the unfunded vested benefits allocable to an employer under this paragraph is the product of—

"(A) the plan's unfunded vested benefits as of the end of the plan year preceding the plan year in which the employer withdraws, less the value as of the end of such year of all outstanding claims for withdrawal liability which can reasonably be expected to be collected from employers withdrawing before such year; multiplied by

"(B) a fraction—

"(i) the numerator of which is the total amount required to be contributed by the employer under the plan for the last 5 plan years ending before the withdrawal, and

"(ii) the denominator of which is the total amount contributed under the plan by all employers for the last 5 plan years ending before the withdrawal, increased by any employer contributions owed with respect to earlier periods which were collected in those plan years, and decreased by any amount contributed to the plan during those plan years by employers who withdrew from the plan under this section during those plan years.

"(4)(A) The amount of the unfunded vested benefits allocable to an employer under this paragraph is equal to the sum of—

"(i) the plan's unfunded vested benefits which are attributable to participants' service with the employer (determined as of the end of the plan year preceding the plan year in which the employer withdraws), and

"(ii) the employer's proportional share of any unfunded vested benefits which are not attributable to service with the employer or other employers who are obligated to contribute under the plan in the plan year preceding the plan year in which the employer withdraws (determined as of the end of the plan year preceding the plan year in which the employer withdraws).

"(B) The plan's unfunded vested benefits which are attributable to participants' service with the employer is the amount equal to the value of nonforfeitable benefits under the plan which are attributable to participants' service with such employer (determined under plan rules not inconsistent with regulations of the corporation) decreased by the share of plan assets determined under subparagraph (C) which is allocated to the employer as provided under subparagraph (D).

Plan assets, value.

"(C) The value of plan assets determined under this subparagraph is the value of plan assets allocated to nonforfeitable benefits which are attributable to service with the employers who have an obligation to contribute under the plan in the plan year preceding the plan year in which the employer withdraws, which is determined by multiplying—

"(i) the value of the plan assets as of the end of the plan year preceding the plan year in which the employer withdraws, by

"(ii) a fraction—

"(I) the numerator of which is the value of nonforfeitable benefits which are attributable to service with such employers, and

"(II) the denominator of which is the value of all nonforfeitable benefits under the plan

as of the end of the plan year.

"(D) The share of plan assets, determined under subparagraph (C), which is allocated to the employer shall be determined in accordance

with one of the following methods which shall be adopted by the plan by amendment:

"(i) by multiplying the value of plan assets determined under subparagraph (C) by a fraction—

"(I) the numerator of which is the value of the nonforfeitable benefits which are attributable to service with the employer, and

"(II) the denominator of which is the value of the nonforfeitable benefits which are attributable to service with all employers who have an obligation to contribute under the plan in the plan year preceding the plan year in which the employer withdraws;

"(ii) by multiplying the value of plan assets determined under subparagraph (C) by a fraction—

"(I) the numerator of which is the sum of all contributions (accumulated with interest) which have been made to the plan by the employer for the plan year preceding the plan year in which the employer withdraws and all preceding plan years; and

"(II) the denominator of which is the sum of all contributions (accumulated with interest) which have been made to the plan (for the plan year preceding the plan year in which the employer withdraws and all preceding plan years) by all employers who have an obligation to contribute to the plan for the plan year preceding the plan year in which the employer withdraws; or

"(iii) by multiplying the value of plan assets under subparagraph (C) by a fraction—

"(I) the numerator of which is the amount determined under clause (ii)(I) of this subparagraph, less the sum of benefit payments (accumulated with interest) made to participants (and their beneficiaries) for the plan years described in such clause (ii)(I) which are attributable to service with the employer; and

"(II) the denominator of which is the amount determined under clause (ii)(II) of this subparagraph, reduced by the sum of benefit payments (accumulated with interest) made to participants (and their beneficiaries) for the plan years described in such clause (ii)(II) which are attributable to service with respect to the employers described in such clause (ii)(II).

"(E) The amount of the plan's unfunded vested benefits for a plan year preceding the plan year in which an employer withdraws, which is not attributable to service with employers who have an obligation to contribute under the plan in the plan year preceding the plan year in which such employer withdraws, is equal to—

"(i) an amount equal to—

"(I) the value of all nonforfeitable benefits under the plan at the end of such plan year, reduced by

"(II) the value of nonforfeitable benefits under the plan at the end of such plan year which are attributable to participants' service with employers who have an obligation to contribute under the plan for such plan year; reduced by

"(ii) an amount equal to—

"(I) the value of the plan assets as of the end of such plan year, reduced by

"(II) the value of plan assets as of the end of such plan year as determined under subparagraph (C); reduced by

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"(iii) the value of all outstanding claims for withdrawal liability which can reasonably be expected to be collected with respect to employers withdrawing before the year preceding the plan year in which the employer withdraws.

"(F) The employer's proportional share described in subparagraph (A)(ii) for a plan year is the amount determined under subparagraph (E) for the employer, but not in excess of an amount which bears the same ratio to the sum of the amounts determined under subparagraph (E) for all employers under the plan as the amount determined under subparagraph (C) for the employer bears to the sum of the amounts determined under subparagraph (C) for all employers under the plan.

"(G) The corporation may prescribe by regulation other methods which a plan may adopt for allocating assets to determine the amount of the unfunded vested benefits attributable to service with the employer and to determine the employer's share of unfunded vested benefits not attributable to service with employers who have an obligation to contribute under the plan in the plan year in which the employer withdraws.

Regulations.

"(5)(A) The corporation shall prescribe by regulation a procedure by which a plan may, by amendment, adopt any other alternative method for determining an employer's allocable share of unfunded vested benefits under this section, subject to the approval of the corporation based on its determination that adoption of the method by the plan would not significantly increase the risk of loss to plan participants and beneficiaries or to the corporation.

"(B) The corporation may prescribe by regulation standard approaches for alternative methods, other than those set forth in the preceding paragraphs of this subsection, which a plan may adopt under subparagraph (A), for which the corporation may waive or modify the approval requirements of subparagraph (A). Any alternative method shall provide for the allocation of substantially all of a plan's unfunded vested benefits among employers who have an obligation to contribute under the plan.

"(C) Unless the corporation by regulation provides otherwise, a plan may be amended to provide that a period of more than 5 but not more than 10 plan years may be used for determining the numerator and denominator of any fraction which is used under any method authorized under this section for determining an employer's allocable share of unfunded vested benefits under this section.

"(D) The corporation may by regulation permit adjustments in any denominator under this section, consistent with the purposes of this title, where such adjustment would be appropriate to ease administrative burdens of plan sponsors in calculating such denominators.

"(d)(1) The method of calculating an employer's allocable share of unfunded vested benefits set forth in subsection (c)(3) shall be the method for calculating an employer's allocable share of unfunded vested benefits under a plan to which section 404(c) of the Internal Revenue Code of 1954, or a continuation of such a plan, applies, unless the plan is amended to adopt another method authorized under subsection (b) or (c).

26 USC 404.

"(2) Sections 4204, 4209, 4219(c)(1)(B), and 4225 shall not apply with respect to the withdrawal of an employer from a plan described in paragraph (1) unless the plan is amended to provide that any of such sections apply.

Liabilities, transfer.

"(e) In the case of a transfer of liabilities to another plan incident to an employer's withdrawal or partial withdrawal, the withdrawn employer's liability under this part shall be reduced in an amount

equal to the value, as of the end of the last plan year ending on or before the date of the withdrawal, of the transferred unfunded vested benefits.

"(f) In the case of a withdrawal following a merger of multiemployer plans, subsection (b), (c), or (d) shall be applied in accordance with regulations prescribed by the corporation; except that, if a withdrawal occurs in the first plan year beginning after a merger of multiemployer plans, the determination under this section shall be made as if each of the multiemployer plans had remained separate plans.

"OBLIGATION TO CONTRIBUTE; SPECIAL RULES

"SEC. 4212. (a) For purposes of this part, the term 'obligation to contribute' means an obligation to contribute arising— 29 USC 1392.

"(1) under one or more collective bargaining (or related) agreements, or

"(2) as a result of a duty under applicable labor-management relations law, but

does not include an obligation to pay withdrawal liability under this section or to pay delinquent contributions.

"(b) Payments of withdrawal liability under this part shall not be considered contributions for purposes of this part.

"(c) If a principal purpose of any transaction is to evade or avoid liability under this part, this part shall be applied (and liability shall be determined and collected) without regard to such transaction.

"ACTUARIAL ASSUMPTIONS, ETC.

"SEC. 4213. (a) The corporation may prescribe by regulation actuarial assumptions which may be used by a plan actuary in determining the unfunded vested benefits of a plan for purposes of determining an employer's withdrawal liability under this part. Withdrawal liability under this part shall be determined by each plan on the basis of— 29 USC 1393.

"(1) actuarial assumptions and methods which, in the aggregate, are reasonable (taking into account the experience of the plan and reasonable expectations) and which, in combination, offer the actuary's best estimate of anticipated experience under the plan, or

"(2) actuarial assumptions and methods set forth in the corporation's regulations for purposes of determining an employer's withdrawal liability.

"(b) In determining the unfunded vested benefits of a plan for purposes of determining an employer's withdrawal liability under this part, the plan actuary may—

"(1) rely on the most recent complete actuarial valuation used for purposes of section 412 of the Internal Revenue Code of 1954 and reasonable estimates for the interim years of the unfunded vested benefits, and 26 USC 412.

"(2) in the absence of complete data, rely on the data available or on data secured by a sampling which can reasonably be expected to be representative of the status of the entire plan.

"(c) For purposes of this part, the term 'unfunded vested benefits' means with respect to a plan, an amount equal to— "Unfunded vested benefits."

"(A) the value of nonforfeitable benefits under the plan, less

"(B) the value of the assets of the plan.

"APPLICATION OF PLAN AMENDMENTS

29 USC 1394.

"SEC. 4214. (a) No plan rule or amendment adopted after January 31, 1981, under section 4209 or 4211(c) may be applied without the employer's consent with respect to liability for a withdrawal or partial withdrawal which occurred before the date on which the rule or amendment was adopted.

"(b) All plan rules and amendments authorized under this part shall operate and be applied uniformly with respect to each employer, except that special provisions may be made to take into account the creditworthiness of an employer. The plan sponsor shall give notice to all employers who have an obligation to contribute under the plan and to all employee organizations representing employees covered under the plan of any plan rules or amendments adopted pursuant to this section.

"PLAN NOTIFICATION TO CORPORATION OF POTENTIALLY SIGNIFICANT WITHDRAWALS

29 USC 1395.

"SEC. 4215. The corporation may, by regulation, require the plan sponsor of a multiemployer plan to provide notice to the corporation when the withdrawal from the plan by any employer has resulted, or will result, in a significant reduction in the amount of aggregate contributions under the plan made by employers.

"SPECIAL RULES FOR SECTION 404(C) PLANS

29 USC 1396.

"SEC. 4216. (a) In the case of a plan described in subsection (b)—

Ante, p. 1216.

"(1) if an employer withdraws prior to a termination described in section 4041A(a)(2), the amount of withdrawal liability to be paid in any year by such employer shall be an amount equal to the greater of—

"(A) the amount determined under section 4219(c)(1)(C)(i), or

"(B) the product of—

"(i) the number of contribution base units for which the employer would have been required to make contributions for the prior plan year if the employer had not withdrawn, multiplied by

"(ii) the contribution rate for the plan year which would be required to meet the amortization schedules contained in section 4243(d)(3)(B)(ii) (determined without regard to any limitation on such rate otherwise provided by this title)

Post, p. 1252.

except that an employer shall not be required to pay an amount in excess of the withdrawal liability computed with interest; and

"(2) the withdrawal liability of an employer who withdraws after December 31, 1983, as a result of a termination described in section 4041A(a)(2) which is agreed to by the labor organization that appoints the employee representative on the joint board of trustees which sponsors the plan, shall be determined under subsection (c) if—

"(A) as a result of prior employer withdrawals in any plan year commencing after January 1, 1980, the number of contribution base units is reduced to less than 67 percent of the average number of such units for the calendar years 1974 through 1979; and

"(B) at least 50 percent of the withdrawal liability attributable to the first 33 percent decline described in subparagraph (A) has been determined by the plan sponsor to be uncollectible within the meaning of regulations of the corporation of general applicability; and

"(C) the rate of employer contributions under the plan for each plan year following the first plan year beginning after the date of enactment of the Multiemployer Pension Plan Amendments Act of 1980 and preceding the termination date equals or exceeds the rate described in section 4243(d)(3).

Ante, p. 1208.

Post, p. 1252.

"(b) A plan is described in this subsection if—

"(1) it is a plan described in section 404(c) of the Internal Revenue Code of 1954 or a continuation thereof; and

26 USC 404.

"(2) participation in the plan is substantially limited to individuals who retired prior to January 1, 1976.

"(c)(1) The amount of an employer's liability under this paragraph is the product of—

Employer's liability.

"(A) the amount of the employer's withdrawal liability determined without regard to this section, and

"(B) the greater of 90 percent, or a fraction—

"(i) the numerator of which is an amount equal to the portion of the plan's unfunded vested benefits that is attributable to plan participants who have a total of 10 or more years of signatory service, and

"(ii) the denominator of which is an amount equal to the total unfunded vested benefits of the plan.

"(2) For purposes of paragraph (1), the term 'a year of signatory service' means a year during any portion of which a participant was employed for an employer who was obligated to contribute in that year, or who was subsequently obligated to contribute.

"A year of signatory service."

"APPLICATION OF PART IN CASE OF CERTAIN PRE-1980 WITHDRAWALS

"SEC. 4217. (a) For the purpose of determining the amount of unfunded vested benefits allocable to an employer for a partial or complete withdrawal from a plan which occurs after April 28, 1980, and for the purpose of determining whether there has been a partial withdrawal after such date, the amount of contributions, and the number of contribution base units, of such employer properly allocable—

29 USC 1397.

"(1) to work performed under a collective bargaining agreement for which there was a permanent cessation of the obligation to contribute before April 29, 1980, or

"(2) to work performed at a facility at which all covered operations permanently ceased before April 29, 1980, or for which there was a permanent cessation of the obligation to contribute before that date,

shall not be taken into account.

"(b) A plan may, in a manner not inconsistent with regulations, which shall be prescribed by the corporation, adjust the amount of unfunded vested benefits allocable to other employers under a plan maintained by an employer described in subsection (a).

"WITHDRAWAL NOT TO OCCUR MERELY BECAUSE OF CHANGE IN BUSINESS FORM OR SUSPENSION OF CONTRIBUTIONS DURING LABOR DISPUTE

29 USC 1398.

"SEC. 4218. Notwithstanding any other provision of this part, an employer shall not be considered to have withdrawn from a plan solely because—

"(1) an employer ceases to exist by reason of—

"(A) a change in corporate structure described in section 4062(d), or

29 USC 1362.

"(B) a change to an unincorporated form of business enterprise,

if the change causes no interruption in employer contributions or obligations to contribute under the plan, or

"(2) an employer suspends contributions under the plan during a labor dispute involving its employees.

For purposes of this part, a successor or parent corporation or other entity resulting from any such change shall be considered the original employer.

"NOTICE, COLLECTION, ETC., OF WITHDRAWAL LIABILITY

29 USC 1399.

"SEC. 4219. (a) An employer shall, within 30 days after a written request from the plan sponsor, furnish such information as the plan sponsor reasonably determines to be necessary to enable the plan sponsor to comply with the requirements of this part.

Plan sponsor, responsibilities.

"(b)(1) As soon as practicable after an employer's complete or partial withdrawal, the plan sponsor shall—

"(A) notify the employer of—

"(i) the amount of the liability, and

"(ii) the schedule for liability payments, and

"(B) demand payment in accordance with the schedule.

"(2)(A) No later than 90 days after the employer receives the notice described in paragraph (1), the employer—

"(i) may ask the plan sponsor to review any specific matter relating to the determination of the employer's liability and the schedule of payments,

"(ii) may identify any inaccuracy in the determination of the amount of the unfunded vested benefits allocable to the employer, and

"(iii) may furnish any additional relevant information to the plan sponsor.

"(B) After a reasonable review of any matter raised, the plan sponsor shall notify the employer of—

"(i) the plan sponsor's decision,

"(ii) the basis for the decision, and

"(iii) the reason for any change in the determination of the employer's liability or schedule of liability payments.

"(c)(1)(A)(i) Except as provided in subparagraphs (B) and (D) of this paragraph and in paragraphs (4) and (5), an employer shall pay the amount determined under section 4211, adjusted if appropriate first under section 4209 and then under section 4206 over the period of years necessary to amortize the amount in level annual payments determined under subparagraph (C), calculated as if the first payment were made on the first day of the plan year following the plan year in which the withdrawal occurs and as if each subsequent payment were made on the first day of each subsequent plan year. Actual payment shall commence in accordance with paragraph (2).

"(ii) The determination of the amortization period described in clause (i) shall be based on the assumptions used for the most recent actuarial valuation for the plan.

"(B) In any case in which the amortization period described in subparagraph (A) exceeds 20 years, the employer's liability shall be limited to the first 20 annual payments determined under subparagraph (C).

"(C)(i) Except as provided in subparagraph (E), the amount of each annual payment shall be the product of— Annual payment.

"(I) the average annual number of contribution base units for the period of 3 consecutive plan years, during the period of 10 consecutive plan years ending before the plan year in which the withdrawal occurs, in which the number of contribution base units for which the employer had an obligation to contribute under the plan is the highest, and

"(II) the highest contribution rate at which the employer had an obligation to contribute under the plan during the 10 plan years ending with the plan year in which the withdrawal occurs.

For purposes of the preceding sentence, a partial withdrawal described in section 4205(a)(1) shall be deemed to occur on the last day of the first year of the 3-year testing period described in section 4205(b)(1)(B)(i).

"(ii)(I) A plan may be amended to provide that for any plan year ending before 1986 the amount of each annual payment shall be (in lieu of the amount determined under clause (i)) the average of the required employer contributions under the plan for the period of 3 consecutive plan years (during the period of 10 consecutive plan years ending with the plan year preceding the plan year in which the withdrawal occurs) for which such required contributions were the highest.

"(II) Subparagraph (B) shall not apply to any plan year to which this clause applies.

"(III) This clause shall not apply in the case of any withdrawal described in subparagraph (D).

"(IV) If under a plan this clause applies to any plan year but does not apply to the next plan year, this clause shall not apply to any plan year after such next plan year.

"(V) For purposes of this clause, the term 'required contributions' means, for any period, the amounts which the employer was obligated to contribute for such period (not taking into account any delinquent contribution for any other period). "Required contributions."

"(iii) A plan may be amended to provide that for the first plan year ending on or after April 29, 1980, the number '5' shall be substituted for the number '10' each place it appears in clause (i) or clause (ii) (whichever is appropriate). If the plan is so amended, the number '5' shall be increased by one for each succeeding plan year until the number '10' is reached.

"(D) In any case in which a multiemployer plan terminates by the withdrawal of every employer from the plan, or in which substantially all the employers withdraw from a plan pursuant to an agreement or arrangement to withdraw from the plan—

"(i) the liability of each such employer who has withdrawn shall be determined (or redetermined) under this paragraph without regard to subparagraph (B), and

"(ii) notwithstanding any other provision of this part, the total unfunded vested benefits of the plan shall be fully allocated among all such employers in a manner not inconsistent with regulations which shall be prescribed by the corporation.

Withdrawal by an employer from a plan, during a period of 3 consecutive plan years within which substantially all the employers who have an obligation to contribute under the plan withdraw, shall be presumed to be a withdrawal pursuant to an agreement or arrangement, unless the employer proves otherwise by a preponderance of the evidence.

"(E) In the case of a partial withdrawal described in section 4205(a), the amount of each annual payment shall be the product of—

"(i) the amount determined under subparagraph (C) (determined without regard to this subparagraph), multiplied by

"(ii) the fraction determined under section 4206 (a)(2).

"(2) Withdrawal liability shall be payable in accordance with the schedule set forth by the plan sponsor under subsection (b)(1) beginning no later than 60 days after the date of the demand notwithstanding any request for review or appeal of determinations of the amount of such liability or of the schedule.

Annual payment.

"(3) Each annual payment determined under paragraph (1)(C) shall be payable in 4 equal installments due quarterly, or at other intervals specified by plan rules. If a payment is not made when due, interest on the payment shall accrue from the due date until the date on which the payment is made.

"(4) The employer shall be entitled to prepay the outstanding amount of the unpaid annual withdrawal liability payments determined under paragraph (1)(C), plus accrued interest, if any, in whole or in part, without penalty. If the prepayment is made pursuant to a withdrawal which is later determined to be part of a withdrawal described in paragraph (1)(D), the withdrawal liability of the employer shall not be limited to the amount of the prepayment.

Default.

"(5) In the event of a default, a plan sponsor may require immediate payment of the outstanding amount of an employer's withdrawal liability, plus accrued interest on the total outstanding liability from the due date of the first payment which was not timely made. For purposes of this section, the term 'default' means—

"(A) the failure of an employer to make, when due, any payment under this section, if the failure is not cured within 60 days after the employer receives written notification from the plan sponsor of such failure, and

"(B) any other event defined in rules adopted by the plan which indicates a substantial likelihood that an employer will be unable to pay its withdrawal liability.

"(6) Except as provided in paragraph (1)(A)(ii), interest under this subsection shall be charged at rates based on prevailing market rates for comparable obligations, in accordance with regulations prescribed by the corporation.

"(7) A multiemployer plan may adopt rules for other terms and conditions for the satisfaction of an employer's withdrawal liability if such rules—

"(A) are consistent with this Act, and

"(B) are not inconsistent with regulations of the corporation.

"(8) In the case of a terminated multiemployer plan, an employer's obligation to make payments under this section ceases at the end of the plan year in which the assets of the plan (exclusive of withdrawal liability claims) are sufficient to meet all obligations of the plan, as determined by the corporation.

29 USC 1106.

"(d) The prohibitions provided in section 406(a) do not apply to any action required or permitted under this part.

"APPROVAL OF AMENDMENTS

"SEC. 4220. (a) Except as provided in subsection (b), if an amendment to a multiemployer plan authorized by any preceding section of this part is adopted more than 36 months after the effective date of this section, the amendment shall be effective only if the corporation approves the amendment, or, within 90 days after the corporation receives notice and a copy of the amendment from the plan sponsor, fails to disapprove the amendment. 29 USC 1400.

"(b) An amendment permitted by section 4211(c)(5) may be adopted only in accordance with that section.

"(c) The corporation shall disapprove an amendment referred to in subsection (a) or (b) only if the corporation determines that the amendment creates an unreasonable risk of loss to plan participants and beneficiaries or to the corporation.

"RESOLUTION OF DISPUTES

"SEC. 4221. (a)(1) Any dispute between an employer and the plan sponsor of a multiemployer plan concerning a determination made under sections 4201 through 4219 shall be resolved through arbitration. Either party may initiate the arbitration proceeding within a 60-day period after the earlier of— 29 USC 1401.

Ante, p. 1217.

"(A) the date of notification to the employer under section 4219(b)(2)(B), or

"(B) 120 days after the date of the employer's request under section 4219(b)(2)(A).

The parties may jointly initiate arbitration within the 180-day period after the date of the plan sponsor's demand under section 4219(b)(1).

"(2) An arbitration proceeding under this section shall be conducted in accordance with fair and equitable procedures to be promulgated by the corporation. The plan sponsor may purchase insurance to cover potential liability of the arbitrator. If the parties have not provided for the costs of the arbitration, including arbitrator's fees, by agreement, the arbitrator shall assess such fees. The arbitrator may also award reasonable attorney's fees. Arbitration, proceedings.

"(3)(A) For purposes of any proceeding under this section, any determination made by a plan sponsor under sections 4201 through 4219 and section 4225 is presumed correct unless the party contesting the determination shows by a preponderance of the evidence that the determination was unreasonable or clearly erroneous.

"(B) In the case of the determination of a plan's unfunded vested benefits for a plan year, the determination is presumed correct unless a party contesting the determination shows by a preponderance of evidence that—

"(i) the actuarial assumptions and methods used in the determination were, in the aggregate, unreasonable (taking into account the experience of the plan and reasonable expectations), or

"(ii) the plan's actuary made a significant error in applying the actuarial assumptions or methods.

"(b)(1) If no arbitration proceeding has been initiated pursuant to subsection (a), the amounts demanded by the plan sponsor under section 4219(b)(1) shall be due and owing on the schedule set forth by the plan sponsor. The plan sponsor may bring an action in a State or Federal court of competent jurisdiction for collection.

"(2) Upon completion of the arbitration proceedings in favor of one of the parties, any party thereto may bring an action, no later than 30

days after the issuance of an arbitrator's award, in an appropriate United States district court in accordance with section 4301 to enforce, vacate, or modify the arbitrator's award.

Post, p. 1263.

"(3) Any arbitration proceedings under this section shall, to the extent consistent with this title, be conducted in the same manner, subject to the same limitations, carried out with the same powers (including subpena power), and enforced in United States courts as an arbitration proceeding carried out under title 9, United States Code.

9 USC 1.

"(c) In any proceeding under subsection (b), there shall be a presumption, rebuttable only by a clear preponderance of the evidence, that the findings of fact made by the arbitrator were correct.

Employer payments.

"(d) Payments shall be made by an employer in accordance with the determinations made under this part until the arbitrator issues a final decision with respect to the determination submitted for arbitration, with any necessary adjustments in subsequent payments for overpayments or underpayments arising out of the decision of the arbitrator with respect to the determination. If the employer fails to make timely payment in accordance with such final decision, the employer shall be treated as being delinquent in the making of a contribution required under the plan (within the meaning of section 515).

Post, p. 1295.

Information request.

"(e) If any employer requests in writing that the plan sponsor make available to the employer general information necessary for the employer to compute its withdrawal liability with respect to the plan (other than information which is unique to that employer), the plan sponsor shall furnish the information to the employer without charge. If any employer requests in writing that the plan sponsor make an estimate of such employer's potential withdrawal liability with respect to the plan or to provide information unique to that employer, the plan sponsor may require the employer to pay the reasonable cost of making such estimate or providing such information.

"REIMBURSEMENTS FOR UNCOLLECTIBLE WITHDRAWAL LIABILITY

Supplemental reimbursement program.

"SEC. 4222. (a) By May 1, 1982, the corporation shall establish by regulation a supplemental program to reimburse multiemployer plans for withdrawal liability payments which are due from employers and which are determined to be uncollectible for reasons arising out of cases or proceedings involving the employers under title 11, United States Code, or similar cases or proceedings. Participation in the supplemental program shall be on a voluntary basis, and a plan which elects coverage under the program shall pay premiums to the corporation in accordance with a premium schedule which shall be prescribed from time to time by the corporation. The premium schedule shall contain such rates and bases for the application of such rates as the corporation considers to be appropriate.

29 USC 1402.

11 USC 101.

"(b) The corporation may provide under the program for reimbursement of amounts of withdrawal liability determined to be uncollectible for any other reasons the corporation considers appropriate.

Cost.

"(c) The cost of the program (including such administrative and legal costs as the corporation considers appropriate) may be paid only out of premiums collected under such program.

"(d) The supplemental program may be offered to eligible plans on such terms and conditions, and with such limitations with respect to the payment of reimbursements (including the exclusion of de minimis amounts of uncollectible employer liability, and the reduction or

elimination of reimbursements which cannot be paid from collected premiums) and such restrictions on withdrawal from the program, as the corporation considers necessary and appropriate.

"(e) The corporation may enter into arrangements with private insurers to carry out in whole or in part the program authorized by this section and may require plans which elect coverage under the program to elect coverage by those private insurers.

"WITHDRAWAL LIABILITY PAYMENT FUND

"SEC. 4223. (a) The plan sponsors of multiemployer plans may establish or participate in a withdrawal liability payment fund. 29 USC 1403.

"(b) For purposes of this section, the term 'withdrawal liability payment fund', and the term 'fund', mean a trust which— Definitions.

"(1) is established and maintained under section 501(c)(22) of the Internal Revenue Code of 1954, *Post*, p. 1290.

"(2) maintains agreements which cover a substantial portion of the participants who are in multiemployer plans which (under the rules of the trust instrument) are eligible to participate in the fund,

"(3) is funded by amounts paid by the plans which participate in the fund, and

"(4) is administered by a Board of Trustees, and in the administration of the fund there is equal representation of—

"(A) trustees representing employers who are obligated to contribute to the plans participating in the fund, and

"(B) trustees representing employees who are participants in plans which participate in the fund.

"(c)(1) If an employer withdraws from a plan which participates in a withdrawal liability payment fund, then, to the extent provided in the trust, the fund shall pay to that plan—

"(A) the employer's unattributable liability,

"(B) the employer's withdrawal liability payments which would have been due but for section 4208, 4209, 4219, or 4225,

"(C) the employer's withdrawal liability payments to the extent they are uncollectible.

"(2) The fund may provide for the payment of the employer's attributable liability if the fund—

"(A) provides for the payment of both the attributable and the unattributable liability of the employer in a single payment, and

"(B) is subrogated to all rights of the plan against the employer.

"(3) For purposes of this section, the term—

"(A) 'attributable liability' means the excess, if any, determined under the provisions of a plan not inconsistent with regulations of the corporation, of— "Attributable liability."

"(i) the value of vested benefits accrued as a result of service with the employer, over

"(ii) the value of plan assets attributed to the employer, and

"(B) 'unattributable liability' means the excess of withdrawal liability over attributable liability. "Unattributable liability."

Such terms may be further defined, and the manner in which they shall be applied may be prescribed, by the corporation by regulation.

"(4)(A) The trust of a fund shall be maintained for the exclusive purpose of paying—

"(i) any amount described in paragraph (1) and paragraph (2), and

"(ii) reasonable and necessary administrative expenses in connection with the establishment and operation of the trust and the processing of claims against the fund.

"(B) The amounts paid by a plan to a fund shall be deemed a reasonable expense of administering the plan under sections 403(c)(1) and 404(a)(1)(A)(ii), and the payments made by a fund to a participating plan shall be deemed services necessary for the operation of the plan within the meaning of section 408(b)(2) or within the meaning of section 4975(d)(2) of the Internal Revenue Code of 1954.

29 USC 1103, 1104.
29 USC 1108.
26 USC 4975.

"(d)(1) For purposes of this part—

"(A) only amounts paid by the fund to a plan under subsection (c)(1)(A) shall be credited to withdrawal liability otherwise payable by the employer, unless the plan otherwise provides, and

"(B) any amounts paid by the fund under subsection (c) to a plan shall be treated by the plan as a payment of withdrawal liability to such plan.

"(2) For purposes of applying provisions relating to the funding standard accounts (and minimum contribution requirements), amounts paid from the plan to the fund shall be applied to reduce the amount treated as contributed to the plan.

"(e) The fund shall be subrogated to the rights of the plan against the employer that has withdrawn from the plan for amounts paid by a fund to a plan under—

"(1) subsection (c)(1)(A), to the extent not credited under subsection (d)(1)(A), and

"(2) subsection (c)(1)(C).

Fiduciary.

"(f) Notwithstanding any other provision of this Act, a fiduciary of the fund shall discharge the fiduciary's duties with respect to the fund in accordance with the standards for fiduciaries prescribed by this Act (to the extent not inconsistent with the purposes of this section), and in accordance with the documents and instruments governing the fund insofar as such documents and instruments are consistent with the provisions of this Act (to the extent not inconsistent with the purposes of this section). The provisions of the preceding sentence shall supersede any and all State laws relating to fiduciaries insofar as they may now or hereafter relate to a fund to which this section applies.

"(g) No payments shall be made from a fund to a plan on the occasion of a withdrawal or partial withdrawal of an employer from such plan if the employees representing the withdrawn contribution base units continue, after such withdrawal, to be represented under section 9 of the National Labor Relations Act (or other applicable labor laws) in negotiations with such employer by the labor organization which represented such employees immediately preceding such withdrawal.

29 USC 159.

Insurance purchase.

"(h) Nothing in this section shall be construed to prohibit the purchase of insurance by an employer from any other person, to limit the circumstances under which such insurance would be payable, or to limit in any way the terms and conditions of such insurance.

"(i) The corporation may provide by regulation rules not inconsistent with this section governing the establishment and maintenance of funds, but only to the extent necessary to carry out the purposes of this part (other than section 4222).

"ALTERNATIVE METHOD OF WITHDRAWAL LIABILITY PAYMENTS

29 USC 1404.

"SEC. 4224. A multiemployer plan may adopt rules providing for other terms and conditions for the satisfaction of an employer's

withdrawal liability if such rules are consistent with this Act and with such regulations as may be prescribed by the corporation.

"LIMITATION ON WITHDRAWAL LIABILITY

"SEC. 4225. (a)(1) In the case of bona fide sale of all or substantially all of the employer's assets in an arm's-length transaction to an unrelated party (within the meaning of section 4204(d)), the unfunded vested benefits allocable to an employer (after the application of all sections of this part having a lower number designation than this section), other than an employer undergoing reorganization under title 11, United States Code, or similar provisions of State law, shall not exceed the greater of— 29 USC 1405. *Ante*, p. 1220. 11 USC 101.

"(A) a portion (determined under paragraph (2)) of the liquidation or dissolution value of the employer (determined after the sale or exchange of such assets), or

"(B) the unfunded vested benefits attributable to employees of the employer.

"(2) For purposes of paragraph (1), the portion shall be determined in accordance with the following table:

"If the liquidation or dissolution value of the employer after the sale or exchange is—	The portion is—
Not more than $2,000,000	30 percent of the amount.
More than $2,000,000, but not more than $4,000,000.	$600,000, plus 35 percent of the amount in excess of $2,000,000.
More than $4,000,000, but not more than $6,000,000.	$1,300,000, plus 40 percent of the amount in excess of $4,000,000.
More than $6,000,000, but not more than $7,000,000.	$2,100,000, plus 45 percent of the amount in excess of $6,000,000.
More than $7,000,000, but not more than $8,000,000.	$2,550,000, plus 50 percent of the amount in excess of $7,000,000.
More than $8,000,000, but not more than $9,000,000.	$3,050,000, plus 60 percent of the amount in excess of $8,000,000.
More than $9,000,000, but not more than $10,000,000.	$3,650,000, plus 70 percent of the amount in excess of $9,000,000.
More than $10,000,000	$4,350,000, plus 80 percent of the amount in excess of $10,000,000.

"(b) In the case of an insolvent employer undergoing liquidation or dissolution, the unfunded vested benefits allocable to that employer shall not exceed an amount equal to the sum of— Insolvent employer.

"(1) 50 percent of the unfunded vested benefits allocable to the employer (determined without regard to this section), and

"(2) that portion of 50 percent of the unfunded vested benefits allocable to the employer (as determined under paragraph (1)) which does not exceed the liquidation or dissolution value of the employer determined—

"(A) as of the commencement of liquidation or dissolution, and

"(B) after reducing the liquidation or dissolution value of the employer by the amount determined under paragraph (1).

"(c) To the extent that the withdrawal liability of an employer is attributable to his obligation to contribute to or under a plan as an individual (whether as a sole proprietor or as a member of a partnership), property which may be exempt from the estate under section 522 of title 11, United States Code, or under similar provisions of law, shall not be subject to enforcement of such liability.

"(d) For purposes of this section—

Insolvency.

"(1) an employer is insolvent if the liabilities of the employer, including withdrawal liability under the plan (determined without regard to subsection (b)), exceed the assets of the employer (determined as of the commencement of the liquidation or dissolution), and

"(2) the liquidation or dissolution value of the employer shall be determined without regard to such withdrawal liability.

"(e) In the case of one or more withdrawals of an employer attributable to the same sale, liquidation, or dissolution, under regulations prescribed by the corporation—

"(1) all such withdrawals shall be treated as a single withdrawal for the purpose of applying this section, and

"(2) the withdrawal liability of the employer to each plan shall be an amount which bears the same ratio to the present value of the withdrawal liability payments to all plans (after the application of the preceding provisions of this section) as the withdrawal liability of the employer to such plan (determined without regard to this section) bears to the withdrawal liability of the employer to all such plans (determined without regard to this section).

"PART 2—MERGER OR TRANSFER OF PLAN ASSETS OR LIABILITIES

"MERGERS AND TRANSFERS BETWEEN MULTIEMPLOYER PLANS

29 USC 1411.

"SEC. 4231. (a) Unless otherwise provided in regulations prescribed by the corporation, a plan sponsor may not cause a multiemployer plan to merge with one or more multiemployer plans, or engage in a transfer of assets and liabilities to or from another multiemployer plan, unless such merger or transfer satisfies the requirements of subsection (b).

Conditions.

"(b) A merger or transfer satisfies the requirements of this section if—

"(1) in accordance with regulations of the corporation, the plan sponsor of a multiemployer plan notifies the corporation of a merger with or transfer of plan assets or liabilities to another multiemployer plan at least 120 days before the effective date of the merger or transfer;

"(2) no participant's or beneficiary's accrued benefit will be lower immediately after the effective date of the merger or transfer than the benefit immediately before that date;

"(3) the benefits of participants and beneficiaries are not reasonably expected to be subject to suspension under section 4245; and

"(4) an actuarial valuation of the assets and liabilities of each of the affected plans has been performed during the plan year preceding the effective date of the merger or transfer, based upon the most recent data available as of the day before the start of that plan year, or other valuation of such assets and liabilities performed under such standards and procedures as the corporation may prescribe by regulation.

"(c) The merger of multiemployer plans or the transfer of assets or liabilities between multiemployer plans, shall be deemed not to constitute a violation of the provisions of section 406(a) or section 406(b)(2) if the corporation determines that the merger or transfer otherwise satisfies the requirements of this section.

29 USC 1106.

Successor plan.

Ante, p. 1210.

"(d) A plan to which liabilities are transferred under this section is a successor plan for purposes of section 4022A(b)(2)(B).

"TRANSFERS BETWEEN A MULTIEMPLOYER PLAN AND A SINGLE-EMPLOYER PLAN

"SEC. 4232. (a) A transfer of assets or liabilities between, or a merger of, a multiemployer plan and a single-employer plan shall satisfy the requirements of this section. 29 USC 1412.

"(b) No accrued benefit of a participant or beneficiary may be lower immediately after the effective date of a transfer or merger described in subsection (a) than the benefit immediately before that date.

"(c)(1) Except as provided in paragraphs (2) and (3), a multiemployer plan which transfers liabilities to a single-employer plan shall be liable to the corporation if the single-employer plan terminates within 60 months after the effective date of the transfer. The amount of liability shall be the lesser of—

"(A) the amount of the plan asset insufficiency of the terminated single-employer plan, less 30 percent of the net worth of the employer who maintained the single-employer plan, determined in accordance with section 4062 or 4064, or 29 USC 1362, 1364.

"(B) the value, on the effective date of the transfer, of the unfunded benefits transferred to the single-employer plan which are guaranteed under section 4022. 29 USC 1322.

"(2) A multiemployer plan shall be liable to the corporation as provided in paragraph (1) unless, within 180 days after the corporation receives an application (together with such information as the corporation may reasonably require for purposes of such application) from the multiemployer plan sponsor for a determination under this paragraph—

"(A) the corporation determines that the interests of the plan participants and beneficiaries and of the corporation are adequately protected, or

"(B) fails to make any determination regarding the adequacy with which such interests are protected with respect to such transfer of liabilities.

If, after the receipt of such application, the corporation requests from the plan sponsor additional information necessary for the determination, the running of the 180-day period shall be suspended from the date of such request until the receipt by the corporation of the additional information requested. The corporation may by regulation prescribe procedures and standards for the issuance of determinations under this paragraph. This paragraph shall not apply to any application submitted less than 180 days after the date of enactment of the Multiemployer Pension Plan Amendments Act of 1980. Procedures and standards. *Ante*, p. 1208.

"(3) A multiemployer plan shall not be liable to the corporation as provided in paragraph (1) in the case of a transfer from the multiemployer plan to a single-employer plan of liabilities which accrued under a single-employer plan which merged with the multiemployer plan, if, the value of liabilities transferred to the single-employer plan does not exceed the value of the liabilities for benefits which accrued before the merger, and the value of the assets transferred to the single-employer plan is substantially equal to the value of the assets which would have been in the single-employer plan if the employer had maintained and funded it as a separate plan under which no benefits accrued after the date of the merger.

"(4) The corporation may make equitable arrangements with multiemployer plans which are liable under this subsection for satisfaction of their liability.

"(d) Benefits under a single-employer plan to which liabilities are transferred in accordance with this section are guaranteed under Guaranteed benefits.

29 USC 1322.

section 4022 to the extent provided in that section as of the effective date of the transfer and the plan is a successor plan.

Transfer agreement.

"(e)(1) Except as provided in paragraph (2), a multiemployer plan may not transfer liabilities to a single-employer plan unless the plan sponsor of the plan to which the liabilities would be transferred agrees to the transfer.

"(2) In the case of a transfer described in subsection (c)(3), paragraph (1) of this subsection is satisfied by the advance agreement to the transfer by the employer who will be obligated to contribute to the single-employer plan.

Additional requirements.

"(f)(1) The corporation may prescribe by regulation such additional requirements with respect to the transfer of assets or liabilities as may be necessary to protect the interests of plan participants and beneficiaries and the corporation.

Transfer approval.

"(2) Except as otherwise determined by the corporation, a transfer of assets or liabilities to a single-employer plan from a plan in reorganization under section 4241 is not effective unless the corporation approves such transfer.

Ante, p. 1216.

"(3) No transfer to which this section applies, in connection with a termination described in section 4041A(a)(2) shall be effective unless the transfer meets such requirements as may be established by the corporation to prevent an increase in the risk of loss to the corporation.

"PARTITION

29 USC 1413.

"SEC. 4233. (a) The corporation may order the partition of a multiemployer plan in accordance with this section.

Notice and findings.

"(b) A plan sponsor may apply to the corporation for an order partitioning a plan. The corporation may not order the partition of a plan except upon notice to the plan sponsor and the participants and beneficiaries whose vested benefits will be affected by the partition of the plan, and upon finding that—

"(1) a substantial reduction in the amount of aggregate contributions under the plan has resulted or will result from a case or proceeding under title 11, United States Code, with respect to an employer;

11 USC 101.

"(2) the plan is likely to become insolvent;

"(3) contributions will have to be increased significantly in reorganization to meet the minimum contribution requirement and prevent insolvency; and

"(4) partition would significantly reduce the likelihood that the plan will become insolvent.

"(c) The corporation may order the partition of a plan notwithstanding the pendency of a proceeding described in subsection (b)(1).

"(d) The corporation's partition order shall provide for a transfer of no more than the nonforfeitable benefits directly attributable to service with the employer referred to in subsection (b)(1) and an equitable share of assets.

"(e) The plan created by the partition is—

Ante, p. 1210.

"(1) a successor plan to which section 4022A applies, and

"(2) a terminated multiemployer plan to which section 4041A(d) applies, with respect to which only the employer described in subsection (b)(1) has withdrawal liability, and to which section 4068 applies.

29 USC 1368.

29 USC 1342.

"(f) The corporation may proceed under section 4042 (c) through (h) for a decree partitioning a plan and appointing a trustee for the terminated portion of a partitioned plan. The court may order the partition of a plan upon making the findings described in subsection

(b) (1) through (4), and subject to the conditions set forth in subsections (c) through (e).

"ASSET TRANSFER RULES

"SEC. 4234. (a) A transfer of assets from a multiemployer plan to another plan shall comply with asset-transfer rules which shall be adopted by the multiemployer plan and which— 29 USC 1414.

"(1) do not unreasonably restrict the transfer of plan assets in connection with the transfer of plan liabilities, and

"(2) operate and are applied uniformly with respect to each proposed transfer, except that the rules may provide for reasonable variations taking into account the potential financial impact of a proposed transfer on the multiemployer plan.

Plan rules authorizing asset transfers consistent with the requirements of section 4232(c)(3) shall be considered to satisfy the requirements of this subsection.

"(b) The corporation shall prescribe regulations which exempt de minimis transfers of assets from the requirements of this part. Regulations.

"(c) This part shall not apply to transfers of assets pursuant to written reciprocity agreements, except to the extent provided in regulations prescribed by the corporation.

"TRANSFERS PURSUANT TO CHANGE IN BARGAINING REPRESENTATIVE

"SEC. 4235. (a) In any case in which an employer has completely or partially withdrawn from a multiemployer plan (hereafter in this section referred to as the 'old plan') as a result of a certified change of collective bargaining representative occurring after April 28, 1980, if participants of the old plan who are employed by the employer will, as a result of that change, participate in another multiemployer plan (hereafter in this section referred to as the 'new plan'), the old plan shall transfer assets and liabilities to the new plan in accordance with this section. New plan assets and liabilities. 29 USC 1415.

"(b)(1) The employer shall notify the plan sponsor of the old plan of a change in multiemployer plan participation described in subsection (a) no later than 30 days after the employer determines that the change will occur. Notification.

"(2) The plan sponsor of the old plan shall— Plan sponsor, functions.

"(A) notify the employer of—

"(i) the amount of the employer's withdrawal liability determined under part 1 with respect to the withdrawal,

"(ii) the old plan's intent to transfer to the new plan the nonforfeitable benefits of the employees who are no longer working in covered service under the old plan as a result of the change of bargaining representative, and

"(iii) the amount of assets and liabilities which are to be transferred to the new plan, and

"(B) notify the plan sponsor of the new plan of the benefits, assets, and liabilities which will be transferred to the new plan.

"(3) Within 60 days after receipt of the notice described in paragraph (2)(B), the new plan may file an appeal with the corporation to prevent the transfer. The transfer shall not be made if the corporation determines that the new plan would suffer substantial financial harm as a result of the transfer. Upon notification described in paragraph (2), if— Transfer prevention, appeal.

"(A) the employer fails to object to the transfer within 60 days after receipt of the notice described in paragraph (2)(A), or

"(B) the new plan either—

"(i) fails to file such an appeal, or

"(ii) the corporation, pursuant to such an appeal, fails to find that the new plan would suffer substantial financial harm as a result of the transfer described in the notice under paragraph (2)(B) within 180 days after the date on which the appeal is filed,

then the plan sponsor of the old plan shall transfer the appropriate amount of assets and liabilities to the new plan.

Employer's withdrawal liability amount, reduction.
Ante, p. 1217.

"(c) If the plan sponsor of the old plan transfers the appropriate amount of assets and liabilities under this section to the new plan, then the amount of the employer's withdrawal liability (as determined under section 4201(b) without regard to such transfer and this section) with respect to the old plan shall be reduced by the amount by which—

"(1) the value of the unfunded vested benefits allocable to the employer which were transferred by the plan sponsor of the old plan to the new plan, exceeds

"(2) the value of the assets transferred.

"(d) In any case in which there is a complete or partial withdrawal described in subsection (a), if—

"(1) the new plan files an appeal with the corporation under subsection (b)(3), and

"(2) the employer is required by section 4219 to begin making payments of withdrawal liability before the earlier of—

"(A) the date on which the corporation finds that the new plan would not suffer substantial financial harm as a result of the transfer, or

"(B) the last day of the 180-day period beginning on the date on which the new plan files its appeal,

Escrow payments.

then the employer shall make such payments into an escrow held by a bank or similar financial institution satisfactory to the old plan. If the transfer is made, the amounts paid into the escrow shall be returned to the employer. If the transfer is not made, the amounts paid into the escrow shall be paid to the old plan and credited against the employer's withdrawal liability.

"(e)(1) Notwithstanding subsection (b), the plan sponsor shall not transfer any assets to the new plan if—

"(A) the old plan is in reorganization (within the meaning of section 4241(a)), or

"(B) the transfer of assets would cause the old plan to go into reorganization (within the meaning of section 4241(a)).

"(2) In any case in which a transfer of assets from the old plan to the new plan is prohibited by paragraph (1), the plan sponsor of the old plan shall transfer—

"(A) all nonforfeitable benefits described in subsection (b)(2), if the value of such benefits does not exceed the withdrawal liability of the employer with respect to such withdrawal, or

"(B) such nonforfeitable benefits having a value equal to the withdrawal liability of the employer, if the value of such benefits exceeds the withdrawal liability of the employer.

"(f)(1) Notwithstanding subsections (b) and (e), the plan sponsors of the old plan and the new plan may agree to a transfer of assets and liabilities that complies with sections 4231 and 4234, rather than this section, except that the employer's liability with respect to the withdrawal from the old plan shall be reduced under subsection (c) as if assets and liabilities had been transferred in accordance with this section.

"(2) If the employer withdraws from the new plan within 240 months after the effective date of a transfer of assets and liabilities described in this section, the amount of the employer's withdrawal liability to the new plan shall be the greater of—

"(A) the employer's withdrawal liability determined under part 1 with respect to the new plan, or

"(B) the amount by which the employer's withdrawal liability to the old plan was reduced under subsection (c), reduced by 5 percent for each 12-month period following the effective date of the transfer and ending before the date of the withdrawal from the new plan.

Definitions.

"(g) For purposes of this section—

"(1) 'appropriate amount of assets' means the amount by which the value of the nonforfeitable benefits to be transferred exceeds the amount of the employer's withdrawal liability to the old plan (determined under part 1 without regard to section 4211(e)), and

Ante, p. 1226.

"(2) 'certified change of collective bargaining representative' means a change of collective bargaining representative certified under the Labor-Management Relations Act, 1947, or the Railway Labor Act.

29 USC 141.
45 USC 151.

"PART 3—REORGANIZATION; MINIMUM CONTRIBUTION REQUIREMENT FOR MULTIEMPLOYER PLANS

"REORGANIZATION STATUS

"SEC. 4241. (a) A multiemployer plan is in reorganization for a plan year if the plan's reorganization index for that year is greater than zero.

29 USC 1421.

"(b)(1) A plan's reorganization index for any plan year is the excess of—

Reorganization index.

"(A) the vested benefits charge for such year, over

"(B) the net charge to the funding standard account for such year.

"(2) For purposes of this part, the net charge to the funding standard account for any plan year is the excess (if any) of—

Funding standard account.

"(A) the charges to the funding standard account for such year under section 412(b)(2) of the Internal Revenue Code of 1954, over

26 USC 412.

"(B) the credits to the funding standard account under section 412(b)(3)(B) of such Code.

"(3) For purposes of this part, the vested benefits charge for any plan year is the amount which would be necessary to amortize the plan's unfunded vested benefits as of the end of the base plan year in equal annual installments—

Vested benefits charge.

"(A) over 10 years, to the extent such benefits are attributable to persons in pay status, and

"(B) over 25 years, to the extent such benefits are attributable to other participants.

"(4)(A) The vested benefits charge for a plan year shall be based on an actuarial valuation of the plan as of the end of the base plan year, adjusted to reflect—

Actuarial valuation.

"(i) any—

"(I) decrease of 5 percent or more in the value of plan assets, or increase of 5 percent or more in the number of persons in pay status, during the period beginning on the first day of the plan year following the base plan year and ending on the adjustment date, or

"(II) at the election of the plan sponsor, actuarial valuation of the plan as of the adjustment date or any later date not later than the last day of the plan year for which the determination is being made,

"(ii) any change in benefits under the plan which is not otherwise taken into account under this subparagraph and which is pursuant to any amendment—

"(I) adopted before the end of the plan year for which the determination is being made, and

"(II) effective after the end of the base plan year and on or before the end of the plan year referred to in subclause (I), and

"(iii) any other event (including an event described in subparagraph (B)(i)(I)) which, as determined in accordance with regulations prescribed by the Secretary, would substantially increase the plan's vested benefit charge.

"(B)(i) In determining the vested benefits charge for a plan year following a plan year in which the plan was not in reorganization, any change in benefits which—

"(I) results from the changing of a group of participants from one benefit level to another benefit level under a schedule of plan benefits as a result of changes in a collective bargaining agreement, or

"(II) results from any other change in a collective bargaining agreement,

shall not be taken into account except to the extent provided in regulations prescribed by the Secretary of the Treasury.

"(ii) Except as otherwise determined by the Secretary of the Treasury, in determining the vested benefits charge for any plan year following any plan year in which the plan was in reorganization, any change in benefits—

"(I) described in clause (i)(I), or

"(II) described in clause (i)(II) as determined under regulations prescribed by the Secretary of the Treasury,

shall, for purposes of subparagraph (A)(ii), be treated as a change in benefits pursuant to an amendment to a plan.

Base plan year.

"(5)(A) For purposes of this part, the base plan year for any plan year is—

"(i) if there is a relevant collective bargaining agreement, the last plan year ending at least 6 months before the relevant effective date, or

"(ii) if there is no relevant collective bargaining agreement, the last plan year ending at least 12 months before the beginning of the plan year.

Relevant collective bargaining agreement.

"(B) For purposes of this part, a relevant collective bargaining agreement is a collective bargaining agreement—

"(i) which is in effect for at least 6 months during the plan year, and

"(ii) which has not been in effect for more than 36 months as of the end of the plan year.

Relevant effective date.

"(C) For purposes of this part, the relevant effective date is the earliest of the effective dates for the relevant collective bargaining agreements.

Adjustment date.

"(D) For purposes of this part, the adjustment date is the date which is—

"(i) 90 days before the relevant effective date, or

"(ii) if there is no relevant effective date, 90 days before the beginning of the plan year.

"(6) For purposes of this part, the term 'person in pay status' means— "Person in pay status."

"(A) a participant or beneficiary on the last day of the base plan year who, at any time during such year, was paid an early, late, normal, or disability retirement benefit (or a death benefit related to a retirement benefit), and

"(B) to the extent provided in regulations prescribed by the Secretary of the Treasury, any other person who is entitled to such a benefit under the plan.

"(7) For purposes of paragraph (3)—

"(A) in determining the plan's unfunded vested benefits, plan assets shall first be allocated to the vested benefits attributable to persons in pay status, and

"(B) the vested benefits charge shall be determined without regard to reductions in accrued benefits under section 4244A which are first effective in the plan year.

"(8) For purposes of this part, any outstanding claim for withdrawal liability shall not be considered a plan asset, except as otherwise provided in regulations prescribed by the Secretary of the Treasury.

"(9) For purposes of this part, the term 'unfunded vested benefits' means with respect to a plan, an amount (determined in accordance with regulations prescribed by the Secretary of the Treasury) equal to— "Unfunded vested benefits."

"(A) the value of nonforfeitable benefits under the plan, less

"(B) the value of assets of the plan.

"(c) Except as provided in regulations prescribed by the corporation, while a plan is in reorganization a benefit with respect to a participant (other than a death benefit) which is attributable to employer contributions and which has a value of more than $1,750 may not be paid in a form other than an annuity which (by itself or in combination with social security, railroad retirement, or workers' compensation benefits) provides substantially level payments over the life of the participant.

"(d) Any multiemployer plan which terminates under section 4041A(a)(2) shall not be considered in reorganization after the last day of the plan year in which the plan is treated as having terminated. *Ante*, p. 1216.

"NOTICE OF REORGANIZATION AND FUNDING REQUIREMENTS

"SEC. 4242. (a)(1) If— 29 USC 1422.

"(A) a multiemployer plan is in reorganization for a plan year, and

"(B) section 4243 would require an increase in contributions for such plan year,

the plan sponsor shall notify the persons described in paragraph (2) that the plan is in reorganization and that, if contributions to the plan are not increased, accrued benefits under the plan may be reduced or an excise tax may be imposed (or both such reduction and imposition may occur).

"(2) The persons described in this paragraph are—

"(A) each employer who has an obligation to contribute under the plan (within the meaning of section 4201(h)(5)), and *Ante*, p. 1217.

"(B) each employee organization which, for purposes of collective bargaining, represents plan participants employed by such an employer.

"(3) The determination under paragraph (1)(B) shall be made without regard to the overburden credit provided by section 4244.

Additional or alternative requirements.

"(b) The corporation may prescribe additional or alternative requirements for assuring, in the case of a plan with respect to which notice is required by subsection (a)(1), that the persons described in subsection (a)(2)—

"(1) receive appropriate notice that the plan is in reorganization,

"(2) are adequately informed of the implications of reorganization status, and

"(3) have reasonable access to information relevant to the plan's reorganization status.

"MINIMUM CONTRIBUTION REQUIREMENT

29 USC 1423.

"SEC. 4243. (a)(1) For any plan year for which a plan is in reorganization—

"(A) the plan shall continue to maintain its funding standard account while it is in reorganization, and

Accumulated funding deficiency.

"(B) the plan's accumulated funding deficiency under section 302(a) for such plan year shall be equal to the excess (if any) of—

"(i) the sum of the minimum contribution requirement for such plan year (taking into account any overburden credit under section 4244(a)) plus the plan's accumulated funding deficiency for the preceding plan year (determined under this section if the plan was in reorganization during such year or under section 302(a) if the plan was not in reorganization), over

29 USC 1082.

"(ii) amounts considered contributed by employers to or under the plan for the plan year (increased by any amount waived under subsection (f) for the plan year).

Withdrawal liability payments.

"(2) For purposes of paragraph (1), withdrawal liability payments (whether or not received) which are due with respect to withdrawals before the end of the base plan year shall be considered amounts contributed by the employer to or under the plan if, as of the adjustment date, it was reasonable for the plan sponsor to anticipate that such payments would be made during the plan year.

"(b)(1) Except as otherwise provided in this section, for purposes of this part the minimum contribution requirement for a plan year in which a plan is in reorganization is an amount equal to the excess of—

"(A) the sum of—

"(i) the plan's vested benefits charge for the plan year, and

"(ii) the increase in normal cost for the plan year determined under the entry age normal funding method which is attributable to plan amendments adopted while the plan was in reorganization, over

"(B) the amount of the overburden credit (if any) determined under section 4244 for the plan year.

"(2) If the plan's current contribution base for the plan year is less than the plan's valuation contribution base for the plan year, the minimum contribution requirement for such plan year shall be equal to the product of the amount determined under paragraph (1) (after any adjustment required by this part other than this paragraph) and a fraction—

"(A) the numerator of which is the plan's current contribution base for the plan year, and

"(B) the denominator of which is the plan's valuation contribution base for the plan year.

"(3)(A) If the vested benefits charge for a plan year of a plan in reorganization is less than the plan's cash-flow amount for the plan year, the plan's minimum contribution requirement for the plan year is the amount determined under paragraph (1) (determined before the application of paragraph (2)) after substituting the term 'cash-flow amount' for the term 'vested benefits charge' in paragraph (1)(A).

Cash-flow amount.

"(B) For purposes of subparagraph (A), a plan's cash-flow amount for a plan year is an amount equal to—

"(i) the amount of the benefits payable under the plan for the base plan year, plus the amount of the plan's administrative expenses for the base plan year, reduced by

"(ii) the value of the available plan assets for the base plan year determined under regulations prescribed by the Secretary of the Treasury,

adjusted in a manner consistent with section 4241(b)(4).

Current contribution base.

"(c)(1) For purposes of this part, a plan's current contribution base for a plan year is the number of contribution base units with respect to which contributions are required to be made under the plan for that plan year, determined in accordance with regulations prescribed by the Secretary of the Treasury.

Valuation countribution base.

"(2)(A) Except as provided in subparagraph (B), for purposes of this part a plan's valuation contribution base is the number of contribution base units for which contributions were received for the base plan year—

"(i) adjusted to reflect declines in the contribution base which have occurred (or could reasonably be anticipated) as of the adjustment date for the plan year referred to in paragraph (1),

"(ii) adjusted upward (in accordance with regulations prescribed by the Secretary of the Treasury) for any contribution base reduction in the base plan year caused by a strike or lockout or by unusual events, such as fire, earthquake, or severe weather conditions, and

"(iii) adjusted (in accordance with regulations prescribed by the Secretary of the Treasury) for reductions in the contribution base resulting from transfers of liabilities.

"(B) For any plan year—

"(i) in which the plan is insolvent (within the meaning of section 4245(b)(1)), and

"(ii) beginning with the first plan year beginning after the expiration of all relevant collective bargaining agreements which were in effect in the plan year in which the plan became insolvent,

the plan's valuation contribution base is the greater of the number of contribution base units for which contributions were received for the first or second plan year preceding the first plan year in which the plan is insolvent, adjusted as provided in clause (ii) or (iii) of subparagraph (A).

"(d)(1) Under regulations prescribed by the Secretary of the Treasury, the minimum contribution requirement applicable to any plan for any plan year which is determined under subsection (b) (without regard to subsection (b)(2)) shall not exceed an amount which is equal to the sum of—

"(A) the greater of—

"(i) the funding standard requirement for such plan year,

or

"(ii) 107 percent of—

"(I) if the plan was not in reorganization in the preceding plan year, the funding standard requirement for such preceding plan year, or

"(II) if the plan was in reorganization in the preceding plan year, the sum of the amount determined under this subparagraph for the preceding plan year and the amount (if any) determined under subparagraph (B) for the preceding plan year, plus

"(B) if for the plan year a change in benefits is first required to be considered in computing the charges under section 412(b)(2) (A) or (B) of the Internal Revenue Code of 1954, the sum of— 26 USC 412.

"(i) the increase in normal cost for a plan year determined under the entry age normal funding method due to increases in benefits described in section 4241(b)(4)(A)(ii) (determined without regard to section 4241(b)(4)(B)(i)), and

"(ii) the amount necessary to amortize in equal annual installments the increase in the value of vested benefits under the plan due to increases in benefits described in clause (i) over—

"(I) 10 years, to the extent such increase in value is attributable to persons in pay status, or

"(II) 25 years, to the extent such increase in value is attributable to other participants.

Funding standard requirement.

"(2) For purposes of paragraph (1), the funding standard requirement for any plan year is an amount equal to the net charge to the funding standard account for such plan year (as defined in section 4241(b)(2)).

Ante, p. 1234.

"(3)(A) In the case of a plan described in section 4216(b), if a plan amendment which increases benefits is adopted after January 1, 1980—

"(i) paragraph (1) shall apply only if the plan is a plan described in subparagraph (B), and

"(ii) the amount under paragraph (1) shall be determined without regard to paragraph (1)(B).

"(B) A plan is described in this subparagraph if—

"(i) the rate of employer contributions under the plan for the first plan year beginning on or after the date on which an amendment increasing benefits is adopted, multiplied by the valuation contribution base for that plan year, equals or exceeds the sum of—

"(I) the amount that would be necessary to amortize fully, in equal annual installments, by July 1, 1986, the unfunded vested benefits attributable to plan provisions in effect on July 1, 1977 (determined as of the last day of the base plan year); and

"(II) the amount that would be necessary to amortize fully, in equal annual installments, over the period described in subparagraph (C), beginning with the first day of the first plan year beginning on or after the date on which the amendment is adopted, the unfunded vested benefits (determined as of the last day of the base plan year) attributable to each plan amendment after July 1, 1977; and

"(ii) the rate of employer contributions for each subsequent plan year is not less than the lesser of—

"(I) the rate which when multiplied by the valuation contribution base for that subsequent plan year produces the

annual amount that would be necessary to complete the amortization schedule described in clause (i), or

"(II) the rate for the plan year immediately preceding such subsequent plan year, plus 5 percent of such rate.

"(C) The period determined under this subparagraph is the lesser of—

"(i) 12 years, or

"(ii) a period equal in length to the average of the remaining expected lives of all persons receiving benefits under the plan.

"(4) Paragraph (1) shall not apply with respect to a plan, other than a plan described in paragraph (3), for the period of consecutive plan years in each of which the plan is in reorganization, beginning with a plan year in which occurs the earlier of the date of the adoption or the effective date of any amendment of the plan which increases benefits with respect to service performed before the plan year in which the adoption of the amendment occurred.

"(e) In determining the minimum contribution requirement with respect to a plan for a plan year under subsection (b), the vested benefits charge may be adjusted to reflect a plan amendment reducing benefits under section 412(c)(8) of the Internal Revenue Code of 1954. 26 USC 412.

"(f)(1) The Secretary of the Treasury may waive any accumulated funding deficiency under this section in accordance with the provisions of section 303(a). 29 USC 1083.

"(2) Any waiver under paragraph (1) shall not be treated as a waived funding deficiency (within the meaning of section 303(c)).

"(g) For purposes of making any determination under this part, the requirements of section 302(c)(3) shall apply. 29 USC 1082.

"OVERBURDEN CREDIT AGAINST MINIMUM CONTRIBUTION REQUIREMENT

"SEC. 4244. (a) For purposes of determining the minimum contribution requirement under section 4243 (before the application of section 4243 (b)(2) or (d)) the plan sponsor of a plan which is overburdened for the plan year shall apply an overburden credit against the plan's minimum contribution requirement for the plan year (determined without regard to section 4243 (b)(2) or (d) and without regard to this section). 29 USC 1424.

"(b) A plan is overburdened for a plan year if—

"(1) the average number of pay status participants under the plan in the base plan year exceeds the average of the number of active participants in the base plan year and the 2 plan years preceding the base plan year, and

"(2) the rate of employer contributions under the plan equals or exceeds the greater of—

"(A) such rate for the preceding plan year, or

"(B) such rate for the plan year preceding the first year in which the plan is in reorganization.

"(c) The amount of the overburden credit for a plan year is the product of— Amount, determination factors.

"(1) one-half of the average guaranteed benefit paid for the base plan year, and

"(2) the overburden factor for the plan year.

The amount of the overburden credit for a plan year shall not exceed the amount of the minimum contribution requirement for such year (determined without regard to this section).

"(d) For purposes of this section, the overburden factor of a plan for the plan year is an amount equal to—

"(1) the average number of pay status participants for the base plan year, reduced by

"(2) the average of the number of active participants for the base plan year and for each of the 2 plan years preceding the base plan year.

"(e) For purposes of this section—

"Pay status participant."

"(1) The term 'pay status participant' means, with respect to a plan, a participant receiving retirement benefits under the plan.

Active participants, numerical determination.

"(2) The number of active participants for a plan year shall be the sum of—

"(A) the number of active employees who are participants in the plan and on whose behalf contributions are required to be made during the plan year;

"(B) the number of active employees who are not participants in the plan but who are in an employment unit covered by a collective bargaining agreement which requires the employees' employer to contribute to the plan, unless service in such employment unit was never covered under the plan or a predecessor thereof, and

"(C) the total number of active employees attributed to employers who made payments to the plan for the plan year of withdrawal liability pursuant to part 1, determined by dividing—

"(i) the total amount of such payments, by

"(ii) the amount equal to the total contributions received by the plan during the plan year divided by the average number of active employees who were participants in the plan during the plan year.

Alternate methods.

The Secretary of the Treasury shall by regulation provide alternative methods of determining active participants where (by reason of irregular employment, contributions on a unit basis, or otherwise) this paragraph does not yield a representative basis for determining the credit.

"Average number."

"(3) The term 'average number' means, with respect to pay status participants for a plan year, a number equal to one-half the sum of—

"(A) the number with respect to the plan as of the beginning of the plan year, and

"(B) the number with respect to the plan as of the end of the plan year.

Average guaranteed benefit.

"(4) The average guaranteed benefit paid is 12 times the average monthly pension payment guaranteed under section 4022A(c)(1) determined under the provisions of the plan in effect at the beginning of the first plan year in which the plan is in reorganization and without regard to section 4022A(c)(2).

Ante, p. 1210.

"(5) The first year in which the plan is in reorganization is the first of a period of 1 or more consecutive plan years in which the plan has been in reorganization not taking into account any plan years the plan was in reorganization prior to any period of 3 or more consecutive plan years in which the plan was not in reorganization.

"(f)(1) Notwithstanding any other provision of this section, a plan is not eligible for an overburden credit for a plan year if the Secretary of the Treasury finds that the plan's current contribution base for the plan year was reduced, without a corresponding reduction in the plan's unfunded vested benefits attributable to pay status partici-

pants, as a result of a change in an agreement providing for employer contributions under the plan.

"(2) For purposes of paragraph (1), a complete or partial withdrawal of an employer (within the meaning of part 1) does not impair a plan's eligibility for an overburden credit, unless the Secretary of the Treasury finds that a contribution base reduction described in paragraph (1) resulted from a transfer of liabilities to another plan in connection with the withdrawal.

"(g) Notwithstanding any other provision of this section, if 2 or more multiemployer plans merge, the amount of the overburden credit which may be applied under this section with respect to the plan resulting from the merger for any of the 3 plan years ending after the effective date of the merger shall not exceed the sum of the used overburden credit for each of the merging plans for its last plan year ending before the effective date of the merger. For purposes of the preceding sentence, the used overburden credit is that portion of the credit which does not exceed the excess of the minimum contribution requirement (determined without regard to any overburden requirement under this section) over the employer contributions required under the plan.

Used overburden credit.

"ADJUSTMENTS IN ACCRUED BENEFITS

"SEC. 4244A. (a)(1) Notwithstanding sections 203 and 204, a multiemployer plan in reorganization may be amended in accordance with this section, to reduce or eliminate accrued benefits attributable to employer contributions which, under section 4022A(b), are not eligible for the corporation's guarantee. The preceding sentence shall only apply to accrued benefits under plan amendments (or plans) adopted after March 26, 1980, or under collective bargaining agreements entered into after March 26, 1980.

29 USC 1425.
29 USC 1053, 1054.

"(2) In determining the minimum contribution requirement with respect to a plan for a plan year under section 4243(b), the vested benefits charge may be adjusted to reflect a plan amendment reducing benefits under this section or section 412(c)(8) of the Internal Revenue Code of 1954, but only if the amendment is adopted and effective no later than 2½ months after the end of the plan year, or within such extended period as the Secretary of the Treasury may prescribe by regulation under section 412(c)(10) of such Code.

26 USC 412.

"(b)(1) Accrued benefits may not be reduced under this section unless—

Reduction conditions.

"(A) notice has been given, at least 6 months before the first day of the plan year in which the amendment reducing benefits is adopted, to—

"(i) plan participants and beneficiaries,

"(ii) each employer who has an obligation to contribute (within the meaning of section 4212(a)) under the plan, and

"(iii) each employee organization which, for purposes of collective bargaining, represents plan participants employed by such an employer,

Ante, p. 1233.

that the plan is in reorganization and that, if contributions under the plan are not increased, accrued benefits under the plan will be reduced or an excise tax will be imposed on employers;

"(B) in accordance with regulations prescribed by the Secretary of the Treasury—

"(i) any category of accrued benefits is not reduced with respect to inactive participants to a greater extent propor-

tionally than such category of accrued benefits is reduced with respect to active participants,

"(ii) benefits attributable to employer contributions other than accrued benefits and the rate of future benefit accruals are reduced at least to an extent equal to the reduction in accrued benefits of inactive participants, and

"(iii) in any case in which the accrued benefit of a participant or beneficiary is reduced by changing the benefit form or the requirements which the participant or beneficiary must satisfy to be entitled to the benefit, such reduction is not applicable to—

"(I) any participant or beneficiary in pay status on the effective date of the amendment, or the beneficiary of such a participant, or

"(II) any participant who has attained normal retirement age, or who is within 5 years of attaining normal retirement age, on the effective date of the amendment, or the beneficiary of any such participant; and

"(C) the rate of employer contributions for the plan year in which the amendment becomes effective and for all succeeding plan years in which the plan is in reorganization equals or exceeds the greater of—

"(i) the rate of employer contributions, calculated without regard to the amendment, for the plan year in which the amendment becomes effective, or

"(ii) the rate of employer contributions for the plan year preceding the plan year in which the amendment becomes effective.

"(2) The plan sponsors shall include in any notice required to be sent to plan participants and beneficiaries under paragraph (1) information as to the rights and remedies of plan participants and beneficiaries as well as how to contact the Department of Labor for further information and assistance where appropriate.

"(c) A plan may not recoup a benefit payment which is in excess of the amount payable under the plan because of an amendment retroactively reducing accrued benefits under this section.

Amended plans.

"(d)(1)(A) A plan which has been amended to reduce accrued benefits under this section may be amended to increase or restore accrued benefits, or the rate of future benefit accruals, only if the plan is amended to restore levels of previously reduced accrued benefits of inactive participants and of participants who are within 5 years of attaining normal retirement age to at least the same extent as any such increase in accrued benefits or in the rate of future benefit accruals.

"(B) For purposes of this subsection, in the case of a plan which has been amended under this section to reduce accrued benefits—

"(i) an increase in a benefit, or in the rate of future benefit accruals, shall be considered a benefit increase to the extent that the benefit, or the accrual rate, is thereby increased above the highest benefit level, or accrual rate, which was in effect under the terms of the plan before the effective date of the amendment reducing accrued benefits, and

"(ii) an increase in a benefit, or in the rate of future benefit accruals, shall be considered a benefit restoration to the extent that the benefit, or the accrual rate, is not thereby increased above the highest benefit level, or accrual rate, which was in effect under the terms of the plan immediately before the effective date of the amendment reducing accrued benefits.

"(2) If a plan is amended to partially restore previously reduced accrued benefit levels, or the rate of future benefit accruals, the benefits of inactive participants shall be restored in at least the same proportions as other accrued benefits which are restored.

"(3) No benefit increase under a plan may take effect in a plan year in which an amendment reducing accrued benefits under the plan, in accordance with this section, is adopted or first becomes effective.

"(4) A plan is not required to make retroactive benefit payments with respect to that portion of an accrued benefit which was reduced and subsequently restored under this section.

"(e) For purposes of this section, 'inactive participant' means a person not in covered service under the plan who is in pay status under the plan or who has a nonforfeitable benefit under the plan. "Inactive participant."

"(f) The Secretary of the Treasury may prescribe rules under which, notwithstanding any other provision of this section, accrued benefit reductions or benefit increases for different participant groups may be varied equitably to reflect variations in contribution rates and other relevant factors reflecting differences in negotiated levels of financial support for plan benefit obligations.

"INSOLVENT PLANS

"SEC. 4245. (a) Notwithstanding sections 203 and 204, in any case in which benefit payments under an insolvent multiemployer plan exceed the resource benefit level, any such payments of benefits which are not basic benefits shall be suspended, in accordance with this section, to the extent necessary to reduce the sum of such payments and the payments of such basic benefits to the greater of the resource benefit level or the level of basic benefits, unless an alternative procedure is prescribed by the corporation under section 4022A(g)(5). Non-basic benefits, payment suspension. 29 USC 1426. 29 USC 1053, 1054. *Ante*, p. 1210.

"(b) For purposes of this section, for a plan year— Definitions.

"(1) a multiemployer plan is insolvent if the plan's available resources are not sufficient to pay benefits under the plan when due for the plan year, or if the plan is determined to be insolvent under subsection (d);

"(2) 'resource benefit level' means the level of monthly benefits determined under subsections (c) (1) and (3) and (d)(3) to be the highest level which can be paid out of the plan's available resources;

"(3) 'available resources' means the plan's cash, marketable assets, contributions, withdrawal liability payments, and earnings, less reasonable administrative expenses and amounts owed for such plan year to the corporation under section 4261(b)(2); and

"(4) 'insolvency year' means a plan year in which a plan is insolvent.

"(c)(1) The plan sponsor of a plan in reorganization shall determine in writing the plan's resource benefit level for each insolvency year, based on the plan sponsor's reasonable projection of the plan's available resources and the benefits payable under the plan. Resource benefit level.

"(2) The suspension of benefit payments under this section shall, in accordance with regulations prescribed by the Secretary of the Treasury, apply in substantially uniform proportions to the benefits of all persons in pay status (within the meaning of section 4241(b)(6)) under the plan, except that the Secretary of the Treasury may prescribe rules under which benefit suspensions for different participant groups may be varied equitably to reflect variations in contribu- Benefit payments, suspension.

tion rates and other relevant factors including differences in negotiated levels of financial support for plan benefit obligations.

Benefit payments, suspension.

"(3) Notwithstanding paragraph (2), if a plan sponsor determines in writing a resource benefit level for a plan year which is below the level of basic benefits, the payment of all benefits other than basic benefits must be suspended for that plan year.

Excess resources, distribution.

"(4)(A) If, by the end of an insolvency year, the plan sponsor determines in writing that the plan's available resources in that insolvency year could have supported benefit payments above the resource benefit level for that insolvency year, the plan sponsor shall distribute the excess resources to the participants and beneficiaries who received benefit payments from the plan in that insolvency year, in accordance with regulations prescribed by the Secretary of the Treasury.

"Excess resources."

"(B) For purposes of this paragraph, the term 'excess resources' means available resources above the amount necessary to support the resource benefit level, but no greater than the amount necessary to pay benefits for the plan year at the benefit levels under the plan.

"(5) If, by the end of an insolvency year, any benefit has not been paid at the resource benefit level, amounts up to the resource benefit level which were unpaid shall be distributed to the participants and beneficiaries, in accordance with regulations prescribed by the Secretary of the Treasury, to the extent possible taking into account the plan's total available resources in that insolvency year.

"(6) Except as provided in paragraph (4) or (5), a plan is not required to make retroactive benefit payments with respect to that portion of a benefit which was suspended under this section.

"(d)(1) As of the end of the first plan year in which a plan is in reorganization, and at least every 3 plan years thereafter (unless the plan is no longer in reorganization), the plan sponsor shall compare the value of plan assets (determined in accordance with section 4243(b)(3)(B)(ii)) for that plan year with the total amount of benefit payments made under the plan for that plan year. Unless the plan sponsor determines that the value of plan assets exceeds 3 times the total amount of benefit payments, the plan sponsor shall determine whether the plan will be insolvent in any of the next 3 plan years.

"(2) If, at any time, the plan sponsor of a plan in reorganization reasonably determines, taking into account the plan's recent and anticipated financial experience, that the plan's available resources are not sufficient to pay benefits under the plan when due for the next plan year, the plan sponsor shall make such determination available to interested parties.

Benefit levels.

"(3) The plan sponsor of a plan in reorganization shall determine in writing for each insolvency year the resource benefit level and the level of basic benefits no later than 3 months before the insolvency year.

Reorganization plan sponsor, duties.

"(e)(1) If the plan sponsor of a plan in reorganization determines under subsection (d) (1) or (2) that the plan may become insolvent (within the meaning of subsection (b)(1)), the plan sponsor shall—

"(A) notify the Secretary of the Treasury, the corporation, the parties described in section 4242(a)(2), and the plan participants and beneficiaries of that determination, and

"(B) inform the parties described in section 4242(a)(2) and the plan participants and beneficiaries that if insolvency occurs certain benefit payments will be suspended, but that basic benefits will continue to be paid.

"(2) No later than 2 months before the first day of each insolvency year, the plan sponsor of a plan in reorganization shall notify the

Secretary of the Treasury, the corporation, and the parties described in paragraph (1)(B) of the resource benefit level determined in writing for that insolvency year.

"(3) In any case in which the plan sponsor anticipates that the resource benefit level for an insolvency year may not exceed the level of basic benefits, the plan sponsor shall notify the corporation.

"(4) Notice required by this subsection shall be given in accordance with regulations prescribed by the corporation, except that notice to the Secretary of the Treasury shall be given in accordance with regulations prescribed by the Secretary of the Treasury.

"(5) The corporation may prescribe a time other than the time prescribed by this section for the making of a determination or the filing of a notice under this section.

Financial assistance.

"(f)(1) If the plan sponsor of an insolvent plan, for which the resource benefit level is above the level of basic benefits, anticipates that, for any month in an insolvency year, the plan will not have funds sufficient to pay basic benefits, the plan sponsor may apply for financial assistance from the corporation under section 4261.

Infra.

"(2) A plan sponsor who has determined a resource benefit level for an insolvency year which is below the level of basic benefits shall apply for financial assistance from the corporation under section 4261.

"PART 4—FINANCIAL ASSISTANCE

"FINANCIAL ASSISTANCE

29 USC 1431.
Infra.

"SEC. 4261. (a) If, upon receipt of an application for financial assistance under section 4245(f) or section 4281(d), the corporation verifies that the plan is or will be insolvent and unable to pay basic benefits when due, the corporation shall provide the plan financial assistance in an amount sufficient to enable the plan to pay basic benefits under the plan.

"(b)(1) Financial assistance shall be provided under such conditions as the corporation determines are equitable and are appropriate to prevent unreasonable loss to the corporation with respect to the plan.

"(2) A plan which has received financial assistance shall repay the amount of such assistance to the corporation on reasonable terms consistent with regulations prescribed by the corporation.

"(c) Pending determination of the amount described in subsection (a), the corporation may provide financial assistance in such amounts as it considers appropriate in order to avoid undue hardship to plan participants and beneficiaries.

"PART 5—BENEFITS AFTER TERMINATION

"BENEFITS UNDER CERTAIN TERMINATED PLANS

Payment reduction and suspension.
29 USC 1441.
29 USC 1053, 1054.

"SEC. 4281. (a) Notwithstanding sections 203 and 204, the plan sponsor of a terminated multiemployer plan to which section 4041A(d) applies shall amend the plan to reduce benefits, and shall suspend benefit payments, as required by this section.

"(b)(1) The value of nonforfeitable benefits under a terminated plan referred to in subsection (a), and the value of the plan's assets, shall be determined in writing, in accordance with regulations prescribed by the corporation, as of the end of the plan year during which section 4041A(d) becomes applicable to the plan, and each plan year thereafter.

Ante, p. 1216.

Plan assets.

"(2) For purposes of this section, plan assets include outstanding claims for withdrawal liability (within the meaning of section 4001(a)(12)).

Post, p. 1296.

"(c)(1) If, according to the determination made under subsection (b), the value of nonforfeitable benefits exceeds the value of the plan's assets, the plan sponsor shall amend the plan to reduce benefits under the plan to the extent necessary to ensure that the plan's assets are sufficient, as determined and certified in accordance with regulations prescribed by the corporation, to discharge when due all of the plan's obligations with respect to nonforfeitable benefits.

"(2) Any plan amendment required by this subsection shall, in accordance with regulations prescribed by the Secretary of the Treasury—

"(A) reduce benefits only to the extent necessary to comply with paragraph (1);

"(B) reduce accrued benefits only to the extent that those benefits are not eligible for the corporation's guarantee under section 4022A(b);

Ante, p. 1210.

"(C) comply with the rules for and limitations on benefit reductions under a plan in reorganization, as prescribed in section 4244A, except to the extent that the corporation prescribes other rules and limitations in regulations under this section; and

"(D) take effect no later than 6 months after the end of the plan year for which it is determined that the value of nonforfeitable benefits exceeds the value of the plan's assets.

"(d)(1) In any case in which benefit payments under a plan which is insolvent under paragraph (2)(A) exceed the resource benefit level, any such payments which are not basic benefits shall be suspended, in accordance with this subsection, to the extent necessary to reduce the sum of such payments and such basic benefits to the greater of the resource benefit level or the level of basic benefits, unless an alternative procedure is prescribed by the corporation in connection with a supplemental guarantee program established under section 4022A(g)(2).

Ante, p. 1210.

Insolvent plan.

"(2) For purposes of this subsection, for a plan year—

"(A) a plan is insolvent if—

"(i) the plan has been amended to reduce benefits to the extent permitted by subsection (c), and

"(ii) the plan's available resources are not sufficient to pay benefits under the plan when due for the plan year; and

"(B) 'resource benefit level' and 'available resources' have the meanings set forth in paragraphs (2) and (3), respectively, of section 4245(b).

"(3) The plan sponsor of a plan which is insolvent (within the meaning of paragraph (2)(A)) shall have the powers and duties of the plan sponsor of a plan in reorganization which is insolvent (within the meaning of section 4245(b)(1)), except that regulations governing the plan sponsor's exercise of those powers and duties under this section shall be prescribed by the corporation, and the corporation shall prescribe by regulation notice requirements which assure that plan participants and beneficiaries receive adequate notice of benefit suspensions.

"(4) A plan is not required to make retroactive benefit payments with respect to that portion of a benefit which was suspended under this subsection, except that the provisions of section 4245(c) (4) and (5) shall apply in the case of plans which are insolvent under paragraph (2)(A), in connection with the plan year during which such section

4041A(d) first became applicable to the plan and every year thereafter, in the same manner and to the same extent as such provisions apply to insolvent plans in reorganization under section 4245, in connection with insolvency years under such section 4245. *Ante*, p. 1216.

"PART 6—ENFORCEMENT

"CIVIL ACTIONS

"SEC. 4301. (a)(1) A plan fiduciary, employer, plan participant, or beneficiary, who is adversely affected by the act or omission of any party under this subtitle with respect to a multiemployer plan, or an employee organization which represents such a plan participant or beneficiary for purposes of collective bargaining, may bring an action for appropriate legal or equitable relief, or both. 29 USC 1451.

"(2) Notwithstanding paragraph (1), this section does not authorize an action against the Secretary of the Treasury, the Secretary of Labor, or the corporation.

"(b) In any action under this section to compel an employer to pay withdrawal liability, any failure of the employer to make any withdrawal liability payment within the time prescribed shall be treated in the same manner as a delinquent contribution (within the meaning of section 515). Withdrawal liability payment. *Post*, p. 1295.

"(c) The district courts of the United States shall have exclusive jurisdiction of an action under this section without regard to the amount in controversy, except that State courts of competent jurisdiction shall have concurrent jurisdiction over an action brought by a plan fiduciary to collect withdrawal liability. Concurrent jurisdiction.

"(d) An action under this section may be brought in the district where the plan is administered or where a defendant resides or does business, and process may be served in any district where a defendant resides, does business, or may be found.

"(e) In any action under this section, the court may award all or a portion of the costs and expenses incurred in connection with such action, including reasonable attorney's fees, to the prevailing party. Costs and expenses.

"(f) An action under this section may not be brought after the later of—

"(1) 6 years after the date on which the cause of action arose, or

"(2) 3 years after the earliest date on which the plaintiff acquired or should have acquired actual knowledge of the existence of such cause of action; except that in the case of fraud or concealment, such action may be brought not later than 6 years after the date of discovery of the existence of such cause of action.

"(g) A copy of the complaint in any action under this section or section 4221 shall be served upon the corporation by certified mail. The corporation may intervene in any such action. *Ante*, p. 1239.

"PENALTY FOR FAILURE TO PROVIDE NOTICE

"SEC. 4302. Any person who fails, without reasonable cause, to provide a notice required under this subtitle or any implementing regulations shall be liable to the corporation in an amount up to $100 for each day for which such failure continues. The corporation may bring a civil action against any such person in the United States District Court for the District of Columbia or in any district court of the United States within the jurisdiction of which the plan assets are located, the plan is administered, or a defendant resides or does 29 USC 1452. Civil action.

business, and process may be served in any district where a defendant resides, does business, or may be found.".

SEC. 105. PREMIUMS.

Rates and bases, schedules.
29 USC 1306.

(a) Section 4006(a) is amended to read as follows:

"(a)(1) The corporation shall prescribe such schedules of premium rates and bases for the application of those rates as may be necessary to provide sufficient revenue to the fund for the corporation to carry out its functions under this title. The premium rates charged by the corporation for any period shall be uniform for all plans, other than multiemployer plans, insured by the corporation with respect to basic benefits guaranteed by it under section 4022, and shall be uniform for all multiemployer plans with respect to basic benefits guaranteed by it under section 4022A. In establishing annual premiums with respect to plans, other than multiemployer plans, paragraphs (5) and (6) of this subsection (as in effect before the enactment of the Multiemployer Pension Plan Amendments Act of 1980) shall continue to apply.

29 USC 1322.

Ante, p. 1210.

Ante, p. 1208.

Separate schedules.

"(2) The corporation shall maintain separate schedules of premium rates, and bases for the application of those rates, for—

"(A) basic benefits guaranteed by it under section 4022 for single-employer plans,

"(B) basic benefits guaranteed by it under section 4022A for multiemployer plans,

"(C) nonbasic benefits guaranteed by it under section 4022 for single-employer plans,

"(D) nonbasic benefits guaranteed by it under section 4022A for multiemployer plans, and

"(E) reimbursements of uncollectible withdrawal liability under section 4222.

Ante, p. 1240.

Revised schedules.

The corporation may revise such schedules whenever it determines that revised schedules are necessary. Except as provided in section 4022A(f), in order to place a revised schedule described in subparagraph (A) or (B) in effect, the corporation shall proceed in accordance with subsection (b)(1), and such schedule shall apply only to plan years beginning more than 30 days after the date on which the Congress approves such revised schedule by a concurrent resolution.

Annual rates payable to Pension Benefit Guaranty Corporation.

"(3)(A) Except as provided in subparagraph (C), the annual premium rate payable to the corporation by all plans for basic benefits guaranteed under this title is—

"(i) in the case of a single-employer plan, for plan years beginning after December 31, 1977, an amount equal to $2.60 for each individual who is a participant in such plan during the plan year;

"(ii) in the case of a multiemployer plan, for the plan year within which the date of enactment of the Multiemployer Pension Plan Amendments Act of 1980 falls, an amount for each individual who is a participant in such plan for such plan year equal to the sum of—

"(I) 50 cents, multiplied by a fraction the numerator of which is the number of months in such year ending on or before such date and the denominator of which is 12, and

"(II) $1.00, multiplied by a fraction equal to 1 minus the fraction determined under clause (i),

"(iii) in the case of a multiemployer plan, for plan years beginning after the date of enactment of the Multiemployer Pension Plan Amendments Act of 1980, an amount equal to—

"(I) $1.40 for each participant, for the first, second, third, and fourth plan years,

"(II) $1.80 for each participant, for the fifth and sixth plan years,

"(III) $2.20 for each participant, for the seventh and eighth plan years, and

"(IV) $2.60 for each participant, for the ninth plan year, and for each succeeding plan year.

"(B) The corporation may prescribe by regulation the extent to which the rate described in subparagraph (A)(i) applies more than once for any plan year to an individual participating in more than one plan maintained by the same employer, and the corporation may prescribe regulations under which the rate described in subparagraph (A)(iii) will not apply to the same participant in any multiemployer plan more than once for any plan year.

"(C)(i) If the sum of—

"(I) the amounts in any fund for basic benefits guaranteed for multiemployer plans, and

"(II) the value of any assets held by the corporation for payment of basic benefits guaranteed for multiemployer plans,

is for any calendar year less than 2 times the amount of basic benefits guaranteed by the corporation under this title for multiemployer plans which were paid out of any such fund or assets during the preceding calendar year, the annual premium rates under subparagraph (A) shall be increased to the next highest premium level necessary to insure that such sum will be at least 2 times greater than such amount during the following calendar year.

"(ii) If the board of directors of the corporation determines that an increase in the premium rates under subparagraph (A) is necessary to provide assistance to plans which are receiving assistance under section 4261 and to plans the board finds are reasonably likely to require such assistance, the board may order such increase in the premium rates.

"(iii) The maximum annual premium rate which may be established under this subparagraph is $2.60 for each participant.

"(iv) The provisions of this subparagraph shall not apply if the annual premium rate is increased to a level in excess of $2.60 per participant under any other provisions of this title.

"(D)(i) Not later than 120 days before the date on which an increase under subparagraph (C)(ii) is to become effective, the corporation shall publish in the Federal Register a notice of the determination described in subparagraph (C)(ii), the basis for the determination, the amount of the increase in the premium, and the anticipated increase in premium income that would result from the increase in the premium rate. The notice shall invite public comment, and shall provide for a public hearing if one is requested. Any such hearing shall be commenced not later than 60 days before the date on which the increase is to become effective.

Publication in Federal Register.

Hearing.

"(ii) The board of directors shall review the hearing record established under clause (i) and shall, not later than 30 days before the date on which the increase is to become effective, determine (after consideration of the comments received) whether the amount of the increase should be changed and shall publish its determination in the Federal Register.

Publication in Federal Register.

"(4) The corporation may prescribe, subject to approval by the Congress in accordance with this section or section 4022A(f), alternative schedules of premium rates, and bases for the application of those rates, for basic benefits guaranteed by it under sections 4022

Ante, p. 1210.

29 USC 1322.

Ante, p. 1210.

and 4022A based, in whole or in part, on the risks insured by the corporation in each plan.

"(5)(A) In carrying out its authority under paragraph (1) to establish schedules of premium rates, and bases for the application of those rates, for nonbasic benefits guaranteed under sections 4022 and 4022A, the premium rates charged by the corporation for any period for nonbasic benefits guaranteed shall—

29 USC 1322.

"(i) be uniform by category of nonbasic benefits guaranteed,

"(ii) be based on the risks insured in each category, and

"(iii) reflect the experience of the corporation (including experience which may be reasonably anticipated) in guaranteeing such benefits.

"(B) Notwithstanding subparagraph (A), premium rates charged to any multiemployer plan by the corporation for any period for supplemental guarantees under section 4022A(g)(2) may reflect any reasonable considerations which the corporation determines to be appropriate.".

29 USC 1306.

(b) Section 4006(b) is amended—

(1) by striking out "Committee on Labor and Public Welfare" each place it appears and inserting in lieu thereof "Committee on Labor and Human Resources";

(2) in paragraph (1)—

(A) by striking out "coverage"; and

(B) by striking out "(B) or (C)" and inserting in lieu thereof "(C), (D), or (E)"; and

(3) in paragraph (3), by striking out "coverage".

(c) Section 4006 is further amended by adding at the end thereof the following new subsection:

"(c)(1) Except as provided in subsection (a)(3), and subject to paragraph (2), the rate for all plans for basic benefits guaranteed under this title with respect to plan years ending after September 2, 1974, is—

"(A) in the case of each plan which was not a multiemployer plan in a plan year, an amount equal to $1 for each individual who was a participant in such plan during the plan year, and

"(B) in the case of each plan which was a multiemployer plan in a plan year, an amount equal to 50 cents for each individual who was a participant in such plan during the plan year.

"(2) The rate applicable under this subsection for the plan year preceding September 1, 1975, is the product of—

"(A) the rate described in the preceding sentence; and

"(B) a fraction—

"(i) the numerator of which is the number of calendar months in the plan year which ends after September 2, 1974, and before the date on which the new plan year commences, and

"(ii) the denominator of which is 12.".

SEC. 106. ANNUAL REPORT OF PLAN ADMINISTRATOR.

29 USC 1365.

Section 4065 is amended—

(1) in paragraph (1), by striking out "and";

(2) in paragraph (2), by striking out the period and inserting in lieu thereof "except to the extent the corporation waives such requirement, and"; and

(3) by adding after paragraph (2) the following new paragraph:

"(3) in the case of a multiemployer plan, information with respect to such plan which the corporation determines is neces-

sary for the enforcement of subtitle E and requires by regulation, which may include— *Ante*, p. 1217.

"(A) a statement certified by the plan's enrolled actuary of—

"(i) the value of all vested benefits under the plan as of the end of the plan year, and

"(ii) the value of the plan's assets as of the end of the plan year;

"(B) a statement certified by the plan sponsor of each claim for outstanding withdrawal liability (within the meaning of section 4001(a)(12)) and its value as of the end of that plan year and as of the end of the preceding plan year; and *Post*, p. 1296.

"(C) the number of employers having an obligation to contribute to the plan and the number of employers required to make withdrawal liability payments.".

SEC. 107. CONTINGENT EMPLOYER LIABILITY INSURANCE.

Section 4023 (as in effect immediately before the date of the enactment of this Act) is repealed. Repeal. 29 USC 1323.

SEC. 108. TRANSITION RULES AND EFFECTIVE DATES.

(a) Sections 4081 and 4082 are redesignated as sections 4401 and 4402, respectively. 26 USC 404, 6511; 29 USC 1461.

(b) Section 4402 (as redesignated) is amended by striking out subsection (d) and inserting in lieu thereof the following new subsection: 29 USC 1461.

"(d) Notwithstanding any other provision of this title, guaranteed benefits payable by the corporation pursuant to its discretionary authority under this section shall continue to be paid at the level guaranteed under section 4022, without regard to any limitation on payment under subparagraph (C) or (D) of subsection (c)(4).". 29 USC 1322.

(c)(1) Section 4402 (as redesignated) is further amended by striking out subsection (e) and adding in lieu thereof the following new subsections:

"(e)(1) Except as provided in paragraphs (2), (3), and (4), the amendments to this Act made by the Multiemployer Pension Plan Amendments Act of 1980 shall take effect on the date of the enactment of that Act. *Ante*, p. 1208.

"(2)(A) Except as provided in this paragraph, part 1 of subtitle E, relating to withdrawal liability, takes effect on April 29, 1980. *Ante*, p. 1217.

"(B) For purposes of determining withdrawal liability under part 1 of subtitle E, an employer who has withdrawn from a plan shall be considered to have withdrawn from a multiemployer plan if, at the time of the withdrawal, the plan was a multiemployer plan as defined in section 4001(a)(3) as in effect at the time of the withdrawal. *Post*, p. 1296.

"(3) Sections 4241 through 4245, relating to multiemployer plan reorganization, shall take effect, with respect to each plan, on the first day of the first plan year beginning on or after the earlier of— *Ante*, p. 1249.

"(A) the date on which the last collective bargaining agreement providing for employer contributions under the plan, which was in effect on the date of the enactment of the Multiemployer Pension Plan Amendments Act of 1980, expires, without regard to extensions agreed to on or after the date of the enactment of that Act, or

"(B) 3 years after the date of the enactment of the Multiemployer Pension Plan Amendments Act of 1980.

"(4) Section 4235 shall take effect on April 29, 1980. Effective date. *Ante*, p. 1247.

"(f)(1) In the event that before the date of enactment of the Multiemployer Pension Plan Amendments Act of 1980, the corporation has determined that— *Ante*, p. 1208.

"(A) an employer has withdrawn from a multiemployer plan under section 4063, and

"(B) the employer is liable to the corporation under such section,

the corporation shall retain the amount of liability paid to it or furnished in the form of a bond and shall pay such liability to the plan in the event the plan terminates in accordance with section 4041A(a)(2) before the earlier of April 29, 1985, or the day after the 5-year period commencing on the date of such withdrawal. *Ante*, p. 1216.

"(2) In any case in which the plan is not so terminated within the period described in paragraph (1), the liability of the employer is abated and any payment held in escrow shall be refunded without interest to the employer or the employer's bond shall be cancelled.

"(g)(1) In any case in which an employer or employers withdrew from a multiemployer plan before the effective date of part 1 of subtitle E, the corporation may— *Ante*, p. 1217.

"(A) apply section 4063(d), as in effect before the amendments made by the Multiemployer Pension Plan Amendments Act of 1980, to such plan,

"(B) assess liability against the withdrawn employer with respect to the resulting terminated plan,

"(C) guarantee benefits under the terminated plan under section 4022, as in effect before such amendments, and 29 USC 1322.

"(D) if necessary, enforce such action through suit brought under section 4003. 29 USC 1303.

"(2) The corporation shall use the revolving fund used by the corporation with respect to basic benefits guaranteed under section 4022A in guaranteeing benefits under a terminated plan described in this subsection.". *Ante*, p. 1210.

(2)(A) For the purpose of applying section 4205 of the Employee Retirement Income Security Act of 1974 in the case of an employer described in subparagraph (B)— 29 USC 1385 note. *Ante*, p. 1221.

(i) "more than 75 percent" shall be substituted for "70 percent" in subsections (a) and (b) of such section,

(ii) "25 percent or less" shall be substituted for "30 percent" in subsection (b) of such section, and

(iii) the number of contribution units for the high base year shall be the average annual number of such units for calendar years 1970 and 1971.

(B) An employer is described in this subparagraph if—

(i) the employer is engaged in the trade or business of shipping bulk cargoes in the Great Lakes Maritime Industry, and whose fleet consists of vessels the gross registered tonnage of which was at least 7,800, as stated in the American Bureau of Shipping Record, and

(ii) whose fleet during any 5 years from the period 1970 through and including 1979 has experienced a 33 percent or more increase in the contribution units as measured from the average annual contribution units for the calendar years 1970 and 1971.

(3)(A) For the purpose of determining the withdrawal liability of an employer under title IV of the Employee Retirement Income Security Act of 1974 from a plan that terminates while the plan is insolvent (within the meaning of section 4245 of such Act), the plan's unfunded vested benefits shall be reduced by an amount equal to the sum of all overburden credits that were applied in determining the plan's 29 USC 1426 note. 29 USC 1301. *Ante*, p. 1259.

accumulated funding deficiency for all plan years preceding the first plan year in which the plan is insolvent, plus interest thereon.

(B) The provisions of subparagraph (A) apply only if—

(i) the plan would have been eligible for the overburden credit in the last plan year beginning before the date of the enactment of this Act, if section 4243 of the Employee Retirement Income Security Act of 1974 had been in effect for that plan year, and

(ii) the Pension Benefit Guaranty Corporation determines that the reduction of unfunded vested benefits under subparagraph (A) would not significantly increase the risk of loss to the corporation.

(4) In the case of an employer who withdrew before the date of enactment of this Act from a multiemployer plan covering employees in the seagoing industry (as determined by the corporation), sections 4201 through 4219 of the Employee Retirement Income Security Act of 1974, as added by this Act, are effective as of May 3, 1979. For the purpose of applying section 4217 for purposes of the preceding sentence, the date "May 2, 1979," shall be substituted for "April 28, 1980," and the date "May 3, 1979" shall be substituted for "April 29, 1980". For purposes of this paragraph, terms which are used in title IV of the Employee Retirement Income Security Act of 1974, or in regulations prescribed under that title, and which are used in the preceding sentence have the same meaning as when used in that Act or those regulations. For purposes of this paragraph, the term "employer" includes only a substantial employer covering employees in the seagoing industry (as so determined) in connection with ports on the West Coast of the United States, but does not include an employer who withdrew from a plan because of a change in the collective bargaining representative.

29 USC 1381 note.

Ante, p. 1217.

Ante, p. 1235.

29 USC 1301.

(d) For purposes of section 4205 of the Employee Retirement Income Security Act of 1974—

29 USC 1385 note.

Ante, p. 1221.

(1) subsection (a)(1) of such section shall not apply to any plan year beginning before April 29, 1982,

(2) subsection (a)(2) of such section shall not apply with respect to any cessation of contribution obligations occurring before April 29, 1980, and

(3) in applying subsection (b) of such section, the employer's contribution base units for any plan year ending before April 29, 1980, shall be deemed to be equal to the employer's contribution base units for the last plan year ending before such date.

(e)(1) In the case of a partial withdrawal under section 4205 of the Employee Retirement Income Security Act of 1974, an employer who—

29 USC 1385 note.

(A) before December 13, 1979, had publicly announced the total cessation of covered operations at a facility in a State (and such cessation occurred within 12 months after the announcement),

(B) had not been obligated to make contributions to the plan on behalf of the employees at such facility for more than 8 years before the discontinuance of contributions, and

(C) after the discontinuance of contributions does not within 1 year after the date of the partial withdrawal perform work in the same State of the type for which contributions were previously required,

shall be liable under such section with respect to such partial withdrawal in an amount not greater than the amount determined under paragraph (2).

(2) The amount determined under this paragraph is the excess (if any) of—

(A) the present value (on the withdrawal date) of the benefits under the plan which—

(i) were vested on the withdrawal date (or, if earlier, at the time of separation from service with the employer at the facility),

(ii) were accrued by employees who on December 13, 1979 (or, if earlier, at the time of separation from service with the employer at the facility), were employed at the facility, and

(iii) are attributable to service with the withdrawing employer, over

(B)(i) the sum of—

(I) all employer contributions to the plan on behalf of employees at the facility before the withdrawal date,

(II) interest (to the withdrawal date) on amounts described in subclause (I), and

(III) $100,000, reduced by

(ii) the sum of—

(I) the benefits paid under the plan on or before the withdrawal date with respect to former employees who separated from employment at the facility, and

(II) interest (to the withdrawal date) on amounts described in subclause (I).

(3) For purposes of paragraph (2)—

(A) actuarial assumptions shall be those used in the last actuarial report completed before December 13, 1979,

"Withdrawal date." (B) the term "withdrawal date" means the date on which the employer ceased work at the facility of the type for which contributions were previously required, and

"Facility." (C) the term "facility" means the facility referred to in paragraph (1).

Ante, p. 1263. (f) Title IV is amended by adding at the end thereof the following new section:

"ELECTION OF PLAN STATUS

29 USC 1453. *Ante*, p. 1208. "SEC. 4303. (a) Within one year after the date of the enactment of the Multiemployer Pension Plan Amendments Act of 1980, a multiemployer plan may irrevocably elect, pursuant to procedures established by the corporation, that the plan shall not be treated as a multiemployer plan for any purpose under this Act or the Internal Revenue Code of 1954, if for each of the last 3 plan years ending prior to the effective date of the Multiemployer Pension Plan Amendments Act of 1980—

26 USC 1.

Post, p. 1291. *Post*, p. 1288. "(1) the plan was not a multiemployer plan because the plan was not a plan described in section 3(37)(A)(iii) of this Act and section 414(f)(1)(C) of the Internal Revenue Code of 1954 (as such provisions were in effect on the day before the date of the enactment of the Multiemployer Pension Plan Amendments Act of 1980); and

"(2) the plan had been identified as a plan that was not a multiemployer plan in substantially all its filings with the corporation, the Secretary of Labor and the Secretary of the Treasury.

Conditions. "(b) An election described in subsection (a) shall be effective only if—

"(1) the plan is amended to provide that it shall not be treated as a multiemployer plan for all purposes under this Act and the Internal Revenue Code of 1954, and

"(2) written notice of the amendment is provided to the corporation within 60 days after the amendment is adopted.

"(c) An election described in subsection (a) shall be treated as being effective as of the date of the enactment of the Multiemployer Pension Plan Amendments Act of 1980."

Ante, p. 1208.

TITLE II—AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1954

SEC. 201. AMENDMENT OF THE INTERNAL REVENUE CODE OF 1954.

Except as otherwise expressly provided, whenever in this title an amendment is expressed in terms of an amendment to a section or other provision, the reference is to a section or other provision of the Internal Revenue Code of 1954.

26 USC 1.

SEC. 202. MULTIEMPLOYER PLANS IN REORGANIZATION.

(a) GENERAL RULE.—Part I of subchapter D of chapter 1 (relating to pension, profit sharing, stock bonus plans, etc.) is amended by inserting at the end thereof the following new subpart:

"Subpart C—Special Rules for Multiemployer Plans

"Sec. 418. Reorganization status.
"Sec. 418A. Notice of reorganization and funding requirements.
"Sec. 418B. Minimum contribution requirement.
"Sec. 418C. Overburden credit against minimum contribution requirement.
"Sec. 418D. Adjustments in accrued benefits.
"Sec. 418E. Insolvent plans.

"SEC. 418. REORGANIZATION STATUS.

26 USC 418.

"(a) GENERAL RULE.—A multiemployer plan is in reorganization for a plan year if the plan's reorganization index for that year is greater than zero.

"(b) REORGANIZATION INDEX.—For purposes of this subpart—

"(1) IN GENERAL.—A plan's reorganization index for any plan year is the excess of—

"(A) the vested benefits charge for such year, over

"(B) the net charge to the funding standard account for such year.

"(2) NET CHARGE TO FUNDING STANDARD ACCOUNT.—The net charge to the funding standard account for any plan year is the excess (if any) of—

"(A) the charges to the funding standard account for such year under section 412(b)(2), over

26 USC 412.

"(B) the credits to the funding standard account under section 412(b)(3)(B).

"(3) VESTED BENEFITS CHARGE.—The vested benefits charge for any plan year is the amount which would be necessary to amortize the plan's unfunded vested benefits as of the end of the base plan year in equal annual installments—

"(A) over 10 years, to the extent such benefits are attributable to persons in pay status, and

"(B) over 25 years, to the extent such benefits are attributable to other participants.

"(4) DETERMINATION OF VESTED BENEFITS CHARGE.—

"(A) IN GENERAL.—The vested benefits charge for a plan year shall be based on an actuarial valuation of the plan as of the end of the base plan year, adjusted to reflect—

"(i) any—

"(I) decrease of 5 percent or more in the value of plan assets, or increase of 5 percent or more in the number of persons in pay status, during the period beginning on the first day of the plan year following the base plan year and ending on the adjustment date, or

"(II) at the election of the plan sponsor, actuarial valuation of the plan as of the adjustment date or any later date not later than the last day of the plan year for which the determination is being made,

"(ii) any change in benefits under the plan which is not otherwise taken into account under this subparagraph and which is pursuant to any amendment—

"(I) adopted before the end of the plan year for which the determination is being made, and

"(II) effective after the end of the base plan year and on or before the end of the plan year referred to in subclause (I), and

"(iii) any other event (including an event described in subparagraph (B)(i)(I)) which, as determined in accordance with regulations prescribed by the Secretary, would substantially increase the plan's vested benefit charge.

"(B) CERTAIN CHANGES IN BENEFIT LEVELS.—

"(i) IN GENERAL.—In determining the vested benefits charge for a plan year following a plan year in which the plan was not in reorganization, any change in benefits which—

"(I) results from the changing of a group of participants from one benefit level to another benefit level under a schedule of plan benefits as a result of changes in a collective bargaining agreement, or

"(II) results from any other change in a collective bargaining agreement,

shall not be taken into account except to the extent provided in regulations prescribed by the Secretary.

"(ii) PLAN IN REORGANIZATION.—Except as otherwise determined by the Secretary, in determining the vested benefits charge for any plan year following any plan year in which the plan was in reorganization, any change in benefits—

"(I) described in clause (i)(I), or

"(II) described in clause (i)(II) as determined under regulations prescribed by the Secretary,

shall, for purposes of subparagraph (A)(ii), be treated as a change in benefits pursuant to an amendment to a plan.

"(5) BASE PLAN YEAR.—

"(A) IN GENERAL.—The base plan year for any plan year is—

"(i) if there is a relevant collective bargaining agreement, the last plan year ending at least 6 months before the relevant effective date, or

"(ii) if there is no relevant collective bargaining agreement, the last plan year ending at least 12 months before the beginning of the plan year.

"(B) RELEVANT COLLECTIVE BARGAINING AGREEMENT.—A relevant collective bargaining agreement is a collective bargaining agreement—

"(i) which is in effect for at least 6 months during the plan year, and

"(ii) which has not been in effect for more than 36 months as of the end of the plan year.

"(C) RELEVANT EFFECTIVE DATE.—The relevant effective date is the earliest of the effective dates for the relevant collective bargaining agreements.

"(D) ADJUSTMENT DATE.—The adjustment date is the date which is—

"(i) 90 days before the relevant effective date, or

"(ii) if there is no relevant effective date, 90 days before the beginning of the plan year.

"(6) PERSON IN PAY STATUS.—The term 'person in pay status' means—

"(A) a participant or beneficiary on the last day of the base plan year who, at any time during such year, was paid an early, late, normal, or disability retirement benefit (or a death benefit related to a retirement benefit), and

"(B) to the extent provided in regulations prescribed by the Secretary, any other person who is entitled to such a benefit under the plan.

"(7) OTHER DEFINITIONS AND SPECIAL RULES.—

"(A) UNFUNDED VESTED BENEFITS.—The term 'unfunded vested benefits' means, in connection with a plan, an amount (determined in accordance with regulations prescribed by the Secretary) equal to—

"(i) the value of vested benefits under the plan, less

"(ii) the value of the assets of the plan.

"(B) VESTED BENEFITS.—The term 'vested benefits' means any nonforfeitable benefit (within the meaning of section 4001(a)(8) of the Employee Retirement Income Security Act of 1974).

"(C) ALLOCATION OF ASSETS.—In determining the plan's unfunded vested benefits, plan assets shall first be allocated to the vested benefits attributable to persons in pay status.

"(D) TREATMENT OF CERTAIN BENEFIT REDUCTIONS.—The vested benefits charge shall be determined without regard to reductions in accrued benefits under section 418D which are first effective in the plan year.

"(E) WITHDRAWAL LIABILITY.—For purposes of this part, any outstanding claim for withdrawal liability shall not be considered a plan asset, except as otherwise provided in regulations prescribed by the Secretary.

"(c) PROHIBITION OF NONANNUITY PAYMENTS.—Except as provided in regulations prescribed by the Pension Benefit Guaranty Corporation, while a plan is in reorganization a benefit with respect to a participant (other than a death benefit) which is attributable to employer contributions and which has a value of more than $1,750 may not be paid in a form other than an annuity which (by itself or in combination with social security, railroad retirement, or workers' compensation benefits) provides substantially level payments over the life of the participant.

"(d) TERMINATED PLANS.—Any multiemployer plan which terminates under section 4041A(a)(2) of the Employee Retirement Income Security Act of 1974 shall not be considered in reorganization after

Ante, p. 1216.

the last day of the plan year in which the plan is treated as having terminated.

26 USC 418A.

"SEC. 418A. NOTICE OF REORGANIZATION AND FUNDING REQUIREMENTS.

"(a) NOTICE REQUIREMENT.—

"(1) IN GENERAL.—If—

"(A) a multiemployer plan is in reorganization for a plan year, and

Infra.

"(B) section 418B would require an increase in contributions for such plan year,

the plan sponsor shall notify the persons described in paragraph (2) that the plan is in reorganization and that, if contributions to the plan are not increased, accrued benefits under the plan may be reduced or an excise tax may be imposed (or both such reduction and imposition may occur).

"(2) PERSONS TO WHOM NOTICE IS TO BE GIVEN.—The persons described in this paragraph are—

"(A) each employer who has an obligation to contribute under the plan (within the meaning of section 4212(a) of the Employee Retirement Income Security Act of 1974), and

Ante, p. 1233.

"(B) each employee organization which, for purposes of collective bargaining, represents plan participants employed by such an employer.

"(3) OVERBURDEN CREDIT NOT TAKEN INTO ACCOUNT.—The determination under paragraph (1)(B) shall be made without regard to the overburden credit provided by section 418C.

"(b) ADDITIONAL REQUIREMENTS.—The Pension Benefit Guaranty Corporation may prescribe additional or alternative requirements for assuring, in the case of a plan with respect to which notice is required by subsection (a)(1), that the persons described in subsection (a)(2)—

"(1) receive appropriate notice that the plan is in reorganization,

"(2) are adequately informed of the implications of reorganization status, and

"(3) have reasonable access to information relevant to the plan's reorganization status.

26 USC 418B.

"SEC. 418B. MINIMUM CONTRIBUTION REQUIREMENT.

"(a) ACCUMULATED FUNDING DEFICIENCY IN REORGANIZATION.—

"(1) IN GENERAL.—For any plan year in which a multiemployer plan is in reorganization—

"(A) the plan shall continue to maintain its funding standard account, and

26 USC 412.

"(B) the plan's accumulated funding deficiency under section 412(a) for such plan year shall be equal to the excess (if any) of—

"(i) the sum of the minimum contribution requirement for such plan year (taking into account any overburden credit under section 418C(a)) plus the plan's accumulated funding deficiency for the preceding plan year (determined under this section if the plan was in reorganization during such plan year or under section 412(a) if the plan was not in reorganization), over

"(ii) amounts considered contributed by employers to or under the plan for the plan year (increased by any amount waived under subsection (f) for the plan year).

"(2) TREATMENT OF WITHDRAWAL LIABILITY PAYMENTS.—For purposes of paragraph (1), withdrawal liability payments

(whether or not received) which are due with respect to withdrawals before the end of the base plan year shall be considered amounts contributed by the employer to or under the plan if, as of the adjustment date, it was reasonable for the plan sponsor to anticipate that such payments would be made during the plan year.

"(b) MINIMUM CONTRIBUTION REQUIREMENT.—

"(1) IN GENERAL.—Except as otherwise provided in this section for purposes of this subpart the minimum contribution requirement for a plan year in which a plan is in reorganization is an amount equal to the excess of—

"(A) the sum of—

"(i) the plan's vested benefits charge for the plan year; and

"(ii) the increase in normal cost for the plan year determined under the entry age normal funding method which is attributable to plan amendments adopted while the plan was in reorganization, over

"(B) the amount of the overburden credit (if any) determined under section 418C for the plan year.

"(2) ADJUSTMENT FOR REDUCTIONS IN CONTRIBUTION BASE UNITS.—If the plan's current contribution base for the plan year is less than the plan's valuation contribution base for the plan year, the minimum contribution requirement for such plan year shall be equal to the product of the amount determined under paragraph (1) (after any adjustment required by this subpart other than this paragraph) multiplied by a fraction—

"(A) the numerator of which is the plan's current contribution base for the plan year, and

"(B) the denominator of which is the plan's valuation contribution base for the plan year.

"(3) SPECIAL RULE WHERE CASH-FLOW AMOUNT EXCEEDS VESTED BENEFITS CHARGE.—

"(A) IN GENERAL.—If the vested benefits charge for a plan year of a plan in reorganization is less than the plan's cash-flow amount for the plan year, the plan's minimum contribution requirement for the plan year is the amount determined under paragraph (1) (determined before the application of paragraph (2)) after substituting the term 'cash-flow amount' for the term 'vested benefits charge' in paragraph (1)(A).

"(B) CASH-FLOW AMOUNT.—For purposes of subparagraph (A), a plan's cash-flow amount for a plan year is an amount equal to—

"(i) the amount of the benefits payable under the plan for the base plan year, plus the amount of the plan's administrative expenses for the base plan year, reduced by

"(ii) the value of the available plan assets for the base plan year determined under regulations prescribed by the Secretary,

adjusted in a manner consistent with section 418(b)(4).

"(c) CURRENT CONTRIBUTION BASE; VALUATION CONTRIBUTION BASE.—

"(1) CURRENT CONTRIBUTION BASE.—For purposes of this subpart, a plan's current contribution base for a plan year is the number of contribution base units with respect to which contributions are required to be made under the plan for that plan

year, determined in accordance with regulations prescribed by the Secretary.

"(2) VALUATION CONTRIBUTION BASE.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), for purposes of this subpart a plan's valuation contribution base is the number of contribution base units for which contributions were received for the base plan year—

"(i) adjusted to reflect declines in the contribution base which have occurred (or could reasonably be anticipated) as of the adjustment date for the plan year referred to in paragraph (1),

"(ii) adjusted upward (in accordance with regulations prescribed by the Secretary) for any contribution base reduction in the base plan year caused by a strike or lockout or by unusual events, such as fire, earthquake, or severe weather conditions, and

"(iii) adjusted (in accordance with regulations prescribed by the Secretary) for reductions in the contribution base resulting from transfers of liabilities.

"(B) INSOLVENT PLANS.—For any plan year—

"(i) in which the plan is insolvent (within the meaning of section 418E(b)(1)), and

"(ii) beginning with the first plan year beginning after the expiration of all relevant collective bargaining agreements which were in effect in the plan year in which the plan became insolvent,

the plan's valuation contribution base is the greater of the number of contribution base units for which contributions were received for the first or second plan year preceding the first plan year in which the plan is insolvent, adjusted as provided in clause (ii) or (iii) of subparagraph (A).

"(3) CONTRIBUTION BASE UNIT.—For purposes of this subpart, the term 'contribution base unit' means a unit with respect to which an employer has an obligation to contribute under a multiemployer plan (as defined in regulations prescribed by the Secretary).

"(d) LIMITATION ON REQUIRED INCREASES IN RATE OF EMPLOYER CONTRIBUTIONS.—

"(1) IN GENERAL.—Under regulations prescribed by the Secretary, the minimum contribution requirement applicable to any plan for any plan year which is determined under subsection (b) (without regard to subsection (b)(2)) shall not exceed an amount which is equal to the sum of—

"(A) the greater of—

"(i) the funding standard requirement for such plan year, or

"(ii) 107 percent of—

"(I) if the plan was not in reorganization in the preceding plan year, the funding standard requirement for such preceding plan year, or

"(II) if the plan was in reorganization in the preceding plan year, the sum of the amount determined under this subparagraph for the preceding plan year and the amount (if any) determined under subparagraph (B) for the preceding plan year, plus

"(B) if for the plan year a change in benefits is first required to be considered in computing the charges under section 412(b)(2) (A) or (B), the sum of—

26 USC 412.

"(i) the increase in normal cost for a plan year determined under the entry age normal funding method due to increases in benefits described in section 418(b)(4)(A)(ii) (determined without regard to section 418(b)(4)(B)(ii)), and

"(ii) the amount necessary to amortize in equal annual installments the increase in the value of vested benefits under the plan due to increases in benefits described in clause (i) over—

"(I) 10 years, to the extent such increase in value is attributable to persons in pay status, or

"(II) 25 years, to the extent such increase in value is attributable to other participants.

"(2) FUNDING STANDARD REQUIREMENT.—For purposes of paragraph (1), the funding standard requirement for any plan year is an amount equal to the net charge to the funding standard account for such plan year (as defined in section 418(b)(2)).

"(3) SPECIAL RULE FOR CERTAIN PLANS.—

"(A) IN GENERAL.—In the case of a plan described in section 4216(b) of the Employee Retirement Income Security Act of 1974, if a plan amendment which increases benefits is adopted after January 1, 1980— *Ante*, p. 1234.

"(i) paragraph (1) shall apply only if the plan is a plan described in subparagraph (B), and

"(ii) the amount under paragraph (1) shall be determined without regard to subparagraph (1)(B).

"(B) ELIGIBLE PLANS.—A plan is described in this subparagraph if—

"(i) the rate of employer contributions under the plan for the first plan year beginning on or after the date on which an amendment increasing benefits is adopted, multiplied by the valuation contribution base for that plan year, equals or exceeds the sum of—

"(I) the amount that would be necessary to amortize fully, in equal annual installments, by July 1, 1986, the unfunded vested benefits attributable to plan provisions in effect on July 1, 1977 (determined as of the last day of the base plan year); and

"(II) the amount that would be necessary to amortize fully, in equal annual installments, over the period described in subparagraph (C), beginning with the first day of the first plan year beginning on or after the date on which the amendment is adopted, the unfunded vested benefits (determined as of the last day of the base plan year) attributable to each plan amendment after July 1, 1977; and

"(ii) the rate of employer contributions for each subsequent plan year is not less than the lesser of—

"(I) the rate which when multiplied by the valuation contribution base for that subsequent plan year produces the annual amount that would be necessary to complete the amortization schedule described in clause (i), or

"(II) the rate for the plan year immediately preceding such subsequent plan year, plus 5 percent of such rate.

"(C) PERIOD.—The period determined under this subparagraph is the lesser of—

"(i) 12 years, or

"(ii) a period equal in length to the average of the remaining expected lives of all persons receiving benefits under the plan.

"(4) EXCEPTION IN CASE OF CERTAIN BENEFIT INCREASES.—Paragraph (1) shall not apply with respect to a plan, other than a plan described in paragraph (3), for the period of consecutive plan years in each of which the plan is in reorganization, beginning with a plan year in which occurs the earlier of the date of the adoption or the effective date of any amendment of the plan which increases benefits with respect to service performed before the plan year in which the adoption of the amendment occurred.

"(e) CERTAIN RETROACTIVE PLAN AMENDMENTS.—In determining the minimum contribution requirement with respect to a plan for a plan year under subsection (b), the vested benefits charge may be adjusted to reflect a plan amendment reducing benefits under section 412(c)(8).

26 USC 412.

"(f) WAIVER OF ACCUMULATED FUNDING DEFICIENCY.—

"(1) IN GENERAL.—The Secretary may waive any accumulated funding deficiency under this section in accordance with the provisions of section 412(d)(1).

"(2) TREATMENT OF WAIVER.—Any waiver under paragraph (1) shall not be treated as a waived funding deficiency (within the meaning of section 412(d)(3)).

"(g) ACTUARIAL ASSUMPTIONS MUST BE REASONABLE.—For purposes of making any determination under this subpart, the requirements of section 412(c)(3) shall apply.

26 USC 418C.

"SEC. 418C. OVERBURDEN CREDIT AGAINST MINIMUM CONTRIBUTION REQUIREMENT.

"(a) GENERAL RULE.—For purposes of determining the contribution under section 418B (before the application of section 418B (b)(2) or (d)), the plan sponsor of a plan which is overburdened for the plan year shall apply an overburden credit against the plan's minimum contribution requirement for the plan year (determined without regard to section 418B (b)(2) or (d) and without regard to this section).

"(b) DEFINITION OF OVERBURDENED PLAN.—A plan is overburdened for a plan year if—

"(1) the average number of pay status participants under the plan in the base plan year exceeds the average of the number of active participants in the base plan year and the 2 plan years preceding the base plan year, and

"(2) the rate of employer contributions under the plan equals or exceeds the greater of—

"(A) such rate for the preceding plan year, or

"(B) such rate for the plan year preceding the first year in which the plan is in reorganization.

"(c) AMOUNT OF OVERBURDEN CREDIT.—The amount of the overburden credit for a plan year is the product of—

"(1) one-half of the average guaranteed benefit paid for the base plan year, and

"(2) the overburden factor for the plan year.

The amount of the overburden credit for a plan year shall not exceed the amount of the minimum contribution requirement for such year (determined without regard to this section).

"(d) OVERBURDEN FACTOR.—For purposes of this section, the overburden factor of a plan for the plan year is an amount equal to—

"(1) the average number of pay status participants for the base plan year, reduced by

"(2) the average of the number of active participants for the base plan year and for each of the 2 plan years preceding the base plan year.

"(e) DEFINITIONS.—For purposes of this section—

"(1) PAY STATUS PARTICIPANT.—The term 'pay status participant' means, with respect to a plan, a participant receiving retirement benefits under the plan.

"(2) NUMBER OF ACTIVE PARTICIPANTS.—The number of active participants for a plan year shall be the sum of—

"(A) the number of active employees who are participants in the plan and on whose behalf contributions are required to be made during the plan year;

"(B) the number of active employees who are not participants in the plan but who are in an employment unit covered by a collective bargaining agreement which requires the employees' employer to contribute to the plan unless service in such employment unit was never covered under the plan or a predecessor thereof, and

"(C) the total number of active employees attributed to employers who made payments to the plan for the plan year of withdrawal liability pursuant to part 1 of subtitle E of title IV of the Employee Retirement Income Security Act of 1974, determined by dividing— *Ante*, p. 1217.

"(i) the total amount of such payments, by

"(ii) the amount equal to the total contributions received by the plan during the plan year divided by the average number of active employees who were participants in the plan during the plan year.

The Secretary shall by regulations provide alternative methods of determining active participants where (by reason of irregular employment, contributions on a unit basis, or otherwise) this paragraph does not yield a representative basis for determining the credit.

"(3) AVERAGE NUMBER.—The term 'average number' means, with respect to pay status participants for a plan year, a number equal to one-half the sum of—

"(A) the number with respect to the plan as of the beginning of the plan year, and

"(B) the number with respect to the plan as of the end of the plan year.

"(4) AVERAGE GUARANTEED BENEFIT.—The average guaranteed benefit paid is 12 times the average monthly pension payment guaranteed under section 4022A(c)(1) of the Employee Retirement Income Security Act of 1974 determined under the provisions of the plan in effect at the beginning of the first plan year in which the plan is in reorganization and without regard to section 4022A(c)(2). *Ante*, p. 1210.

"(5) FIRST YEAR IN REORGANIZATION.—The first year in which the plan is in reorganization is the first of a period of 1 or more consecutive plan years in which the plan has been in reorganization not taking into account any plan years the plan was in reorganization prior to any period of 3 or more consecutive plan years in which the plan was not in reorganization.

"(f) NO OVERBURDEN CREDIT IN CASE OF CERTAIN REDUCTIONS IN CONTRIBUTIONS.—

"(1) IN GENERAL.—Notwithstanding any other provision of this section, a plan is not eligible for an overburden credit for a plan year if the Secretary finds that the plan's current contribution base for any plan year was reduced, without a corresponding reduction in the plan's unfunded vested benefits attributable to pay status participants, as a result of a change in an agreement providing for employer contributions under the plan.

"(2) TREATMENT OF CERTAIN WITHDRAWALS.—For purposes of paragraph (1), a complete or partial withdrawal of an employer (within the meaning of part 1 of subtitle E of title IV of the Employee Retirement Income Security Act of 1974) does not impair a plan's eligibility for an overburden credit, unless the Secretary finds that a contribution base reduction described in paragraph (1) resulted from a transfer of liabilities to another plan in connection with the withdrawal.

Ante, p. 1217.

"(g) MERGERS.—Notwithstanding any other provision of this section, if 2 or more multiemployer plans merge, the amount of the overburden credit which may be applied under this section with respect to the plan resulting from the merger for any of the 3 plan years ending after the effective date of the merger shall not exceed the sum of the used overburden credit for each of the merging plans for its last plan year ending before the effective date of the merger. For purposes of the preceding sentence, the used overburden credit is that portion of the credit which does not exceed the excess of the minimum contribution requirement determined without regard to any overburden credit under this section over the employer contributions required under the plan.

26 USC 418D.

"SEC. 418D. ADJUSTMENTS IN ACCRUED BENEFITS.

"(a) ADJUSTMENTS IN ACCRUED BENEFITS.—

26 USC 411.

"(1) IN GENERAL.—Notwithstanding section 411, a multiemployer plan in reorganization may be amended, in accordance with this section, to reduce or eliminate accrued benefits attributable to employer contributions which, under section 4022A(b) of the Employee Retirement Income Security Act of 1974, are not eligible for the Pension Benefit Guaranty Corporation's guarantee. The preceding sentence shall only apply to accrued benefits under plan amendments (or plans) adopted after March 26, 1980, or under collective bargaining agreement entered into after March 26, 1980.

Ante, p. 1210.

"(2) ADJUSTMENT OF VESTED BENEFITS CHARGE.—In determining the minimum contribution requirement with respect to a plan for a plan year under section 418B(b), the vested benefits charge may be adjusted to reflect a plan amendment reducing benefits under this section or section 412(c)(8), but only if the amendment is adopted and effective no later than 2½ months after the end of the plan year, or within such extended period as the Secretary may prescribe by regulations under section 412(c)(10).

Ante, p. 1274.

26 USC 412.

"(b) LIMITATION ON REDUCTION.—

"(1) IN GENERAL.—Accrued benefits may not be reduced under this section unless—

"(A) notice has been given, at least 6 months before the first day of the plan year in which the amendment reducing benefits is adopted, to—

"(i) plan participants and beneficiaries,

"(ii) each employer who has an obligation to contribute (within the meaning of section 4212(a) of the Em-

ployee Retirement Income Security Act of 1974) under the plan, and *Ante*, p. 1233.

"(iii) each employee organization which, for purposes of collective bargaining, represents plan participants employed by such an employer,

that the plan is in reorganization and that, if contributions under the plan are not increased, accrued benefits under the plan will be reduced or an excise tax will be imposed on employers;

"(B) in accordance with regulations prescribed by the Secretary—

"(i) any category of accrued benefits is not reduced with respect to inactive participants to a greater extent proportionally that such category of accrued benefits is reduced with respect to active participants,

"(ii) benefits attributable to employer contributions other than accrued benefits and the rate of future benefit accruals are reduced at least to an extent equal to the reduction in accrued benefits of inactive participants, and

"(iii) in any case in which the accrued benefit of a participant or beneficiary is reduced by changing the benefit form or the requirements which the participant or beneficiary must satisfy to be entitled to the benefit, such reduction is not applicable to—

"(I) any participant or beneficiary in pay status on the effective date of the amendment, or the beneficiary of such a participant, or

"(II) any participant who has attained normal retirement age, or who is within 5 years of attaining normal retirement age, on the effective date of the amendment, or the beneficiary of any such participant; and

"(C) the rate of employer contributions for the plan year in which the amendment becomes effective and for all succeeding plan years in which the plan is in reorganization equals or exceeds the greater of—

"(i) the rate of employer contributions, calculated without regard to the amendment, for the plan year in which the amendment becomes effective, or

"(ii) the rate of employer contributions for the plan year preceding the plan year in which the amendment becomes effective.

"(2) INFORMATION REQUIRED TO BE INCLUDED IN NOTICE.—The plan sponsors shall include in any notice required to be sent to plan participants and beneficiaries under paragraph (1) information as to the rights and remedies of plan participants and beneficiaries as well as how to contact the Department of Labor for further information and assistance where appropriate.

"(c) NO RECOUPMENT.—A plan may not recoup a benefit payment which is in excess of the amount payable under the plan because of an amendment retroactively reducing accrued benefits under this section.

"(d) BENEFIT INCREASES UNDER MULTIEMPLOYER PLAN IN REORGANIZATION.—

"(1) RESTORATION OF PREVIOUSLY REDUCED BENEFITS.—

"(A) IN GENERAL.—A plan which has been amended to reduce accrued benefits under this section may be amended

to increase or restore accrued benefits, or the rate of future benefit accruals, only if the plan is amended to restore levels of previously reduced accrued benefits of inactive participants and of participants who are within 5 years of attaining normal retirement age to at least the same extent as any such increase in accrued benefits or in the rate of future benefit accruals.

"(B) BENEFIT INCREASES AND BENEFIT RESTORATIONS.—For purposes of this subsection, in the case of a plan which has been amended under this section to reduce accrued benefits—

"(i) an increase in a benefit, or in the rate of future benefit accruals, shall be considered a benefit increase to the extent that the benefit, or the accrual rate, is thereby increased above the highest benefit level, or accrual rate, which was in effect under the terms of the plan before the effective date of the amendment reducing accrued benefits, and

"(ii) an increase in a benefit, or in the rate of future benefit accruals, shall be considered a benefit restoration to the extent that the benefit, or the accrual rate, is not thereby increased above the highest benefit level, or accrual rate, which was in effect under the terms of the plan immediately before the effective date of the amendment reducing accrued benefits.

"(2) UNIFORMITY IN BENEFIT RESTORATION.—If a plan is amended to partially restore previously reduced accrued benefit levels, or the rate of future benefit accruals, the benefits of inactive participants shall be restored in at least the same proportions as other accrued benefits which are restored.

"(3) NO BENEFIT INCREASES IN YEAR OF BENEFIT REDUCTION.—No benefit increase under a plan may take effect in a plan year in which an amendment reducing accrued benefits under the plan, in accordance with this section, is adopted or first becomes effective.

"(4) RETROACTIVE PAYMENTS.—A plan is not required to make retroactive benefit payments with respect to that portion of an accrued benefit which was reduced and subsequently restored under this section.

"(e) INACTIVE PARTICIPANT.—For purposes of this section, the term 'inactive participant' means a person not in covered service under the plan who is in pay status under the plan or who has a nonforfeitable benefit under the plan.

"(f) REGULATIONS.—The Secretary may prescribe rules under which, notwithstanding any other provision of this section, accrued benefit reductions or benefit increases for different participant groups may be varied equitably to reflect variations in contribution rates and other relevant factors reflecting differences in negotiated levels of financial support for plan benefit obligations.

26 USC 418E.

"SEC. 418E. INSOLVENT PLANS.

26 USC 411.

"(a) SUSPENSION OF CERTAIN BENEFIT PAYMENTS.—Notwithstanding section 411, in any case in which benefit payments under an insolvent multiemployer plan exceed the resource benefit level, any such payments of benefits which are not basic benefits shall be suspended, in accordance with this section, to the extent necessary to reduce the sum of such payments and the payments of such basic benefits to the greater of the resource benefit level or the level of

basic benefits, unless an alternative procedure is prescribed by the Pension Benefit Guaranty Corporation under section 4022A(g)(5) of the Employee Retirement Income Security Act of 1974. *Ante*, p. 1210.

"(b) DEFINITIONS.—For purposes of this section, for a plan year—

"(1) INSOLVENCY.—A multiemployer plan is insolvent if the plan's available resources are not sufficient to pay benefits under the plan when due for the plan year, or if the plan is determined to be insolvent under subsection (d).

"(2) RESOURCE BENEFIT LEVEL.—The term 'resource benefit level' means the level of monthly benefits determined under subsections (c) (1) and (3) and (d)(3) to be the highest level which can be paid out of the plan's available resources.

"(3) AVAILABLE RESOURCES.—The term 'available resources' means the plan's cash, marketable assets, contributions, withdrawal liability payments, and earnings, less reasonable administrative expenses and amounts owed for such plan year to the Pension Benefit Guaranty Corporation under section 4261(b)(2) of the Employee Retirement Income Security Act of 1974. *Ante*, p. 1261.

"(4) INSOLVENCY YEAR.—The term 'insolvency year' means a plan year in which a plan is insolvent.

"(c) BENEFIT PAYMENTS UNDER INSOLVENT PLANS.—

"(1) DETERMINATION OF RESOURCE BENEFIT LEVEL.—The plan sponsor of a plan in reorganization shall determine in writing the plan's resource benefit level for each insolvency year, based on the plan sponsor's reasonable projection of the plan's available resources and the benefits payable under the plan.

"(2) UNIFORMITY OF THE BENEFIT SUSPENSION.—The suspension of benefit payments under this section shall, in accordance with regulations prescribed by the Secretary, apply in substantially uniform proportions to the benefits of all persons in pay status (within the meaning of section 418(b)(6)) under the plan, except that the Secretary may prescribe rules under which benefit suspensions for different participant groups may be varied equitably to reflect variations in contribution rates and other relevant factors including differences in negotiated levels of financial support for plan benefit obligations.

"(3) RESOURCE BENEFIT LEVEL BELOW LEVEL OF BASIC BENEFITS.—Notwithstanding paragraph (2), if a plan sponsor determines in writing a resource benefit level for a plan year which is below the level of basic benefits, the payment of all benefits other than basic benefits shall be suspended for that plan year.

"(4) EXCESS RESOURCES.—

"(A) IN GENERAL.—If, by the end of an insolvency year, the plan sponsor determines in writing that the plan's available resources in that insolvency year could have supported benefit payments above the resource benefit level for that insolvency year, the plan sponsor shall distribute the excess resources to the participants and beneficiaries who received benefit payments from the plan in that insolvency year, in accordance with regulations prescribed by the Secretary.

"(B) EXCESS RESOURCES.—For purposes of this paragraph, the term 'excess resources' means available resources above the amount necessary to support the resource benefit level, but no greater than the amount necessary to pay benefits for the plan year at the benefit levels under the plan.

"(5) UNPAID BENEFITS.—If, by the end of an insolvency year, any benefit has not been paid at the resource benefit level, amounts up to the resource benefit level which were unpaid shall

be distributed to the participants and beneficiaries, in accordance with regulations prescribed by the Secretary, to the extent possible taking into account the plan's total available resources in that insolvency year.

"(6) RETROACTIVE PAYMENTS.—Except as provided in paragraph (4) or (5), a plan is not required to make retroactive benefit payments with respect to that portion of a benefit which was suspended under this section.

"(d) PLAN SPONSOR DETERMINATION.—

"(1) TRIENNIAL TEST.—As of the end of the first plan year in which a plan is in reorganization, and at least every 3 plan years thereafter (unless the plan is no longer in reorganization), the plan sponsor shall compare the value of plan assets (determined in accordance with section 418B(b)(3)(B)(ii)) for that plan year with the total amount of benefit payments made under the plan for that plan year. Unless the plan sponsor determines that the value of plan assets exceeds 3 times the total amount of benefit payments, the plan sponsor shall determine whether the plan will be insolvent in any of the next 3 plan years.

"(2) DETERMINATION OF INSOLVENCY.—If, at any time, the plan sponsor of a plan in reorganization reasonably determines, taking into account the plan's recent and anticipated financial experience, that the plan's available resources are not sufficient to pay benefits under the plan when due for the next plan year, the plan sponsor shall make such determination available to interested parties.

"(3) DETERMINATION OF RESOURCE BENEFIT LEVEL.—The plan sponsor of a plan in reorganization shall determine in writing for each insolvency year the resource benefit level and the level of basic benefits no later than 3 months before the insolvency year.

"(e) NOTICE REQUIREMENTS.—

"(1) IMPENDING INSOLVENCY.—If the plan sponsor of a plan in reorganization determines under subsection (d) (1) or (2) that the plan may become insolvent (within the meaning of subsection (b)(1)), the plan sponsor shall—

"(A) notify the Secretary, the Pension Benefit Guaranty Corporation, the parties described in section 418A(a)(2), and the plan participants and beneficiaries of that determination, and

"(B) inform the parties described in section 418A(a)(2) and the plan participants and beneficiaries that if insolvency occurs certain benefit payments will be suspended, but that basic benefits will continue to be paid.

"(2) RESOURCE BENEFIT LEVEL.—No later than 2 months before the first day of each insolvency year, the plan sponsor of a plan in reorganization shall notify the Secretary, the Pension Benefit Guaranty Corporation, the parties described in section 418A(a)(2), and the plan participants and beneficiaries of the resource benefit level determined in writing for that insolvency year.

"(3) POTENTIAL NEED FOR FINANCIAL ASSISTANCE.—In any case in which the plan sponsor anticipates that the resource benefit level for an insolvency year may not exceed the level of basic benefits, the plan sponsor shall notify the Pension Benefit Guaranty Corporation.

"(4) REGULATIONS.—Notice required by this subsection shall be given in accordance with regulations prescribed by the Pension Benefit Guaranty Corporation, except that notice to the Secre-

tary shall be given in accordance with regulations prescribed by the Secretary.

"(5) CORPORATION MAY PRESCRIBE TIME.—The Pension Benefit Guaranty Corporation may prescribe a time other than the time prescribed by this section for the making of a determination or the filing of a notice under this section.

"(f) FINANCIAL ASSISTANCE.—

"(1) PERMISSIVE APPLICATION.—If the plan sponsor of an insolvent plan for which the resource benefit level is above the level of basic benefits anticipates that, for any month in an insolvency year, the plan will not have funds sufficient to pay basic benefits, the plan sponsor may apply for financial assistance from the Pension Benefit Guaranty Corporation under section 4261 of the Employee Retirement Income Security Act of 1974. *Ante*, p. 1261.

"(2) MANDATORY APPLICATION.—A plan sponsor who has determined a resource benefit level for an insolvency year which is below the level of basic benefits shall apply for financial assistance from the Pension Benefit Guaranty Corporation under section 4261 of the Employee Retirement Income Security Act of 1974.

"(g) FINANCIAL ASSISTANCE.—Any amount of any financial assistance from the Pension Benefit Guaranty Corporation to any plan, and any repayment of such amount, shall be taken into account under this subpart in such manner as determined by the Secretary.".

(b) CLERICAL AMENDMENT.—The table of subparts for part I of subchapter D of chapter 1 is amended by adding at the end thereof the following new subpart:

"Subpart C. Special rules for multiemployer plans.".

SEC. 203. MINIMUM FUNDING REQUIREMENTS.

Section 412 (relating to minimum funding standards) is amended— 26 USC 412.

(1) in subsection (b), by striking out "(40 plan years in the case of a multiemployer plan)" and "(20 plan years in the case of a multiemployer plan)" each place they appear;

(2) by adding at the end of subsection (b) the following new paragraphs:

"(6) CERTAIN AMORTIZATION CHARGES AND CREDITS.—In the case of a plan which, immediately before the date of the enactment of the Multiemployer Pension Plan Amendments Act of 1980, was a multiemployer plan (within the meaning of section 414(f) as in effect immediately before such date)— *Ante*, p. 1208. *Post*, p. 1288.

"(A) any amount described in paragraph (2)(B)(ii), (2)(B)(iii), or (3)(B)(i) of this subsection which arose in a plan year beginning before such date shall be amortized in equal annual installments (until fully amortized) over 40 plan years, beginning with the plan year in which the amount arose;

"(B) any amount described in paragraph (2)(B)(iv) or (3)(B)(ii) of this subsection which arose in a plan year beginning before such date shall be amortized in equal annual installments (until fully amortized) over 20 plan years, beginning with the plan year in which the amount arose;

"(C) any change in past service liability which arises during the period of 3 plan years beginning on or after such date, and results from a plan amendment adopted before such date, shall be amortized in equal annual installments

(until fully amortized) over 40 plan years, beginning with the plan year in which the change arises; and

"(D) any change in past service liability which arises during the period of 2 plan years beginning on or after such date, and results from the changing of a group of participants from one benefit level to another benefit level under a schedule of plan benefits which—

"(i) was adopted before such date, and

"(ii) was effective for any plan participant before the beginning of the first plan year beginning on or after such date,

shall be amortized in equal annual installments (until fully amortized) over 40 plan years, beginning with the plan year in which the change arises.

"(7) SPECIAL RULES FOR MULTIEMPLOYER PLANS.—For purposes of this section—

"(A) WITHDRAWAL LIABILITY.—Any amount received by a multiemployer plan in payment of all or part of an employer's withdrawal liability under part 1 of subtitle E of title IV of the Employee Retirement Income Security Act of 1974 shall be considered an amount contributed by the employer to or under the plan. The Secretary may prescribe by regulation additional charges and credits to a multiemployer plan's funding standard account to the extent necessary to prevent withdrawal liability payments from being unduly reflected as advance funding for plan liabilities.

Ante, p. 1217.

"(B) ADJUSTMENTS WHEN A MULTIEMPLOYER PLAN LEAVES REORGANIZATION.—If a multiemployer plan is not in reorganization in the plan year but was in reorganization in the immediately preceding plan year, any balance in the funding standard account at the close of such immediately preceding plan year—

"(i) shall be eliminated by an offsetting credit or charge (as the case may be), but

"(ii) shall be taken into account in subsequent plan years by being amortized in equal annual installments (until fully amortized) over 30 plan years.

The preceding sentence shall not apply to the extent of any accumulated funding deficiency under section 418B(a) as of the end of the last plan year that the plan was in reorganization.

Ante, p. 1274.

"(C) PLAN PAYMENTS TO SUPPLEMENTAL PROGRAM OR WITHDRAWAL LIABILITY PAYMENT FUND.—Any amount paid by a plan during a plan year to the Pension Benefit Guaranty Corporation pursuant to section 4222 of such Act or to a fund exempt under section 501(c)(22) pursuant to section 4223 of such Act shall reduce the amount of contributions considered received by the plan for the plan year.

Ante, p. 1240.
Post, p. 1290.
Ante, p. 1241.

"(D) INTERIM WITHDRAWAL LIABILITY PAYMENTS.—Any amount paid by an employer pending a final determination of the employer's withdrawal liability under part 1 of subtitle E of title IV of such Act and subsequently refunded to the employer by the plan shall be charged to the funding standard account in accordance with regulations prescribed by the Secretary.

Ante, p. 1217.

"(E) For purposes of the full funding limitation under subsection (c)(7), unless otherwise provided by the plan, the accrued liability under a multiemployer plan shall not

include benefits which are not nonforfeitable under the plan after the termination of the plan (taking into consideration section 411(d)(3))."; and 26 USC 411.

(3) by adding at the end thereof the following new subsection:

"(j) CERTAIN TERMINATED MULTIEMPLOYER PLANS.—This section pplies with respect to a terminated multiemployer plan to which ection 4021 of the Employee Retirement Income Security Act of 1974 29 USC 1321. pplies, until the last day of the plan year in which the plan rminates, within the meaning of section 4041A(a)(2) of that Act. *Ante*, p. 1216.

"(k) FINANCIAL ASSISTANCE.—Any amount of any financial assistnce from the Pension Benefit Guaranty Corporation to any plan, nd any repayment of such amount, shall be taken into account nder this section in such manner as determined by the Secretary.".

EC. 204. EXCISE TAXES.

Section 4971 (relating to taxes on failure to meet minimum funding 26 USC 4971. tandard) is amended—

(1) by striking out "last sentence" in subsection (c) and inserting in lieu thereof "last two sentences"; and

(2) by adding at the end of subsection (d) the following new sentence: "In the case of a multiemployer plan which is in reorganization under section 418, the same notice and opportunity shall be provided to the Pension Benefit Guaranty Corporation.". *Ante*, p. 1271.

EC. 205. DEDUCTIBILITY OF EMPLOYER LIABILITY PAYMENTS.

Subsection (g) of section 404 (relating to certain employer liability 26 USC 404. ayments considered as contributions) is amended to read as follows:

"(g) CERTAIN EMPLOYER LIABILITY PAYMENTS CONSIDERED AS ONTRIBUTIONS.—

"(1) IN GENERAL.—For purposes of this section, any amount paid by an employer under section 4062, 4063, or 4064, or part 1 of subtitle E of title IV of the Employee Retirement Income Security Act of 1974 shall be treated as a contribution to which this section applies by such employer to or under a stock bonus, pension, profit-sharing, or annuity plan. 29 USC 1362-1364, *ante*, p. 1217.

"(2) CONTROLLED GROUP DEDUCTIONS.—In the case of a payment described in paragraph (1) made by an entity which is liable because it is a member of a commonly controlled group of corporations, trades, or businesses, within the meaning of subsection (b) or (c) of section 414, the fact that the entity did not directly employ participants of the plan with respect to which the liability payment was made shall not affect the deductibility of a payment which otherwise satisfies the conditions of section 162 (relating to trade or business expenses) or section 212 (relating to expenses for the production of income). 26 USC 414. 26 USC 162. 26 USC 212.

"(3) COORDINATION WITH SUBSECTION (a).—Any payment described in paragraph (1) shall (subject to the last sentence of subsection (a)(1)(A)) be deductible under this section when paid.".

EC. 206. MINIMUM VESTING REQUIREMENTS.

Section 411 (relating to minimum vesting standards) is amended— 26 USC 411.

(1) by adding at the end of subsection (a)(3) the following new subparagraphs:

"(E) CESSATION OF CONTRIBUTIONS UNDER A MULTIEMPLOYER PLAN.—A right to an accrued benefit derived from employer contributions under a multiemployer plan shall not be treated as forfeitable solely because the plan provides

that benefits accrued as a result of service with the participant's employer before the employer had an obligation to contribute under the plan may not be payable if the employer ceases contributions to the multiemployer plan.

"(F) REDUCTION AND SUSPENSION OF BENEFITS BY A MULTIEMPLOYER PLAN.—A participant's right to an accrued benefit derived from employer contributions under a multiemployer plan shall not be treated as forfeitable solely because—

"(i) the plan is amended to reduce benefits under section 418D or under section 4281 of the Employee Retirement Income Security Act of 1974, or

"(ii) benefit payments under the plan may be suspended under section 418E or under section 4281 of the Employee Retirement Income Security Act of 1974.";

(2) in subsection (a)(4)(E), by striking out "and";

(3) in subsection (a)(4)(F), by striking out the period and inserting in lieu thereof "; and";

(4) by adding at the end of subsection (a)(4) the following new subparagraph:

"(G) in the case of a multiemployer plan, years of service—

"(i) with an employer after—

"(I) a complete withdrawal of that employer from the plan (within the meaning of section 4203 of the Employee Retirement Income Security Act of 1974), or

"(II) to the extent permitted in regulations prescribed by the Secretary, a partial withdrawal described in section 4205(b)(2)(A)(i) of such Act in conjunction with the decertification of the collective bargaining representative, and

"(ii) with any employer under the plan after the termination date of the plan under section 4048 of such Act."; and

(5) in subsection (d)(6), by striking out "section 412(c)(8)" and inserting in lieu thereof "section 412(c)(8), or section 4281 of the Employee Retirement Income Security Act of 1974".

Ante, p. 1280.
Ante, p. 1261.
Ante, p. 1282.
Ante, p. 1218.
Ante, p. 1221.
26 USC 412.
Ante, p. 1261.

SEC. 207. DEFINITION OF MULTIEMPLOYER PLAN.

(a) Section 414 (relating to definitions and special rules) is amended by striking out subsection (f) and inserting in lieu thereof the following:

"(f) MULTIEMPLOYER PLAN.—

"(1) DEFINITION.—For purposes of this part, the term 'multiemployer plan' means a plan—

"(A) to which more than one employer is required to contribute,

"(B) which is maintained pursuant to one or more collective bargaining agreements between one or more employee organizations and more than one employer, and

"(C) which satisfies such other requirements as the Secretary of Labor may prescribe by regulation.

"(2) CASES OF COMMON CONTROL.—For purposes of this subsection, all trades or businesses (whether or not incorporated) which are under common control within the meaning of subsection (c) are considered a single employer.

"(3) CONTINUATION OF STATUS AFTER TERMINATION.—Notwithstanding paragraph (1), a plan is a multiemployer plan on and

26 USC 414.

after its termination date under title IV of the Employee Retirement Income Security Act of 1974 if the plan was a multiemployer plan under this subsection for the plan year preceding its termination date. 29 USC 1301.

"(4) TRANSITIONAL RULE.—For any plan year which began before the date of the enactment of the Multiemployer Pension Plan Amendments Act of 1980, the term 'multiemployer plan' means a plan described in this subsection as in effect immediately before that date. "Multiemployer plan." *Ante*, p. 1208.

"(5) SPECIAL ELECTION.—Within one year after the date of the enactment of the Multiemployer Pension Plan Amendments Act of 1980, a multiemployer plan may irrevocably elect, pursuant to procedures established by the Pension Benefit Guaranty Corporation and subject to the provisions of section 4403 (b) and (c) of the Employee Retirement Income Security Act of 1974, that the plan shall not be treated as a multiemployer plan for any purpose under such Act or this title, if for each of the last 3 plan years ending prior to the effective date of the Multiemployer Pension Plan Amendments Act of 1980—

"(A) the plan was not a multiemployer plan because the plan was not a plan described in section 3(37)(A)(iii) of the Employee Retirement Income Security Act of 1974 and section 414(f)(1)(C) (as such provisions were in effect on the day before the date of the enactment of the Multiemployer Pension Plan Amendments Act of 1980); and *Post*, p. 1291.

"(B) the plan had been identified as a plan that was not a multiemployer plan in substantially all its filings with the Pension Benefit Guaranty Corporation, the Secretary of Labor and the Secretary.".

SEC. 208. RELATED TECHNICAL AMENDMENTS.

(a) Sections 401(a)(12) and 414(l) are each amended by striking out the last sentence and inserting in lieu thereof the following: "The preceding sentence does not apply to any multiemployer plan with respect to any transaction to the extent that participants either before or after the transaction are covered under a multiemployer plan to which title IV of the Employee Retirement Income Security Act of 1974 applies." 26 USC 401, 414. 29 USC 1301.

(b) Subsection (d) of section 4975 is amended— 26 USC 4975.

(1) by striking out "or" at the end of paragraph (12);

(2) by striking out the period at the end of paragraph (13) and inserting in lieu thereof a semicolon; and

(3) by inserting after paragraph (13) the following new paragraphs:

"(14) any transaction required or permitted under part 1 of subtitle E of title IV or section 4223 of the Employee Retirement Income Security Act of 1974, but this paragraph shall not apply with respect to the application of subsection (c)(1) (E) or (F); or *Ante*, pp. 1217, 1241.

"(15) a merger of multiemployer plans, or the transfer of assets or liabilities between multiemployer plans, determined by the Pension Benefit Guaranty Corporation to meet the requirements of section 4231 of such Act, but this paragraph shall not apply with respect to the application of subsection (c)(1) (E) or (F).". *Ante*, p. 1244.

(c) Section 412(a) is amended by adding at the end thereof the following new sentence: "In any plan year in which a multiemployer plan is in reorganization, the accumulated funding deficiency of the plan shall be determined under section 418B.". 26 USC 412. *Ante*, p. 1274.

26 USC 413.

(d) Section 413(b)(6) is amended by adding at the end thereof the following new sentence: "For purposes of this subsection and the last sentence of section 4971(a), an employer's withdrawal liability under part 1 of subtitle E of title IV of the Employee Retirement Income Security Act of 1974 shall not be treated as a liability for contributions under the plan.".

26 USC 4971.

Ante, p. 1217.

26 USC 401.

(e) Section 401(a)(2), as amended by section 411(b) of this Act, is amended by inserting ", or the return of any withdrawal liability payment determined to be an overpayment within 6 months of such determination" after "501(a)".

Post, p. 1308.

SEC. 209. WITHDRAWAL LIABILITY PAYMENT FUNDS.

26 USC 501.

(a) Subsection (c) of section 501 (relating to list of exempt organizations) is amended by adding at the end thereof the following new paragraph:

"(22) A trust created or organized in the United States and established in writing by the plan sponsors of multiemployer plans if—

"(A) the purpose of such trust is exclusively—

"(i) to pay any amount described in section 4223 (c) or (h) of the Employee Retirement Income Security Act of 1974, and

Ante, p. 1241.

"(ii) to pay reasonable and necessary administrative expenses in connection with the establishment and operation of the trust and the processing of claims against the trust,

"(B) no part of the assets of the trust may be used for, or diverted to, any purpose other than—

"(i) the purposes described in subparagraph (A), or

"(ii) the investment in securities, obligations, or time or demand deposits described in clause (ii) of paragraph (21)(B),

"(C) such trust meets the requirements of paragraphs (2), (3), and (4) of section 4223(b), 4223(h), or, if applicable, section 4223(c) of the Employee Retirement Income Security Act of 1974, and

"(D) the trust instrument provides that, on dissolution of the trust, assets of the trust may not be paid other than to plans which have participated in the plan or, in the case of a trust established under section 4223(h) of such Act, to plans with respect to which employers have participated in the fund.".

26 USC 4975.

(b) Subsection (e) of section 4975 (relating to tax on prohibited transactions) is amended by adding at the end thereof the following new paragraph:

"(9) SECTION MADE APPLICABLE TO WITHDRAWAL LIABILITY PAYMENT FUNDS.—For purposes of this section—

"Plan."

Supra.

"(A) IN GENERAL.—The term 'plan' includes a trust described in section 501(c)(22).

"(B) DISQUALIFIED PERSON.—In the case of any trust to which this section applies by reason of subparagraph (A), the term 'disqualified person' includes any person who is a disqualified person with respect to any plan to which such trust is permitted to make payments under section 4223 of the Employee Retirement Income Security Act of 1974.".

Ante, p. 1241.

(c)(1) Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations) is amended by adding at the end thereof the following new section:

"SEC. 194. CONTRIBUTIONS TO EMPLOYER LIABILITY TRUSTS. 26 USC 194.

"(a) ALLOWANCE OF DEDUCTION.—There shall be allowed as a deduction for the taxable year an amount equal to the amount—

"(1) which is contributed by an employer to a trust described in section 501(c)(22) (relating to withdrawal liability payment fund) which meets the requirements of section 4223(h) of the Employee Retirement Income Security Act of 1974, and *Ante*, p. 1290. *Ante*, p. 1241.

"(2) which is properly allocable to such taxable year.

"(b) ALLOCATION TO TAXABLE YEAR.—In the case of a contribution described in subsection (a) which relates to any specified period of time which includes more than one taxable year, the amount properly allocable to any taxable year in such period shall be determined by prorating such amounts to such taxable years under regulations prescribed by the Secretary.

"(c) DISALLOWANCE OF DEDUCTION.—No deduction shall be allowed under subsection (a) with respect to any contribution described in subsection (a) which does not relate to any specified period of time.".

(2) The table of sections for such part VI is amended by adding at the end thereof the following new item:

"Sec. 194. Contributions to employer liability trusts.".

SEC. 210. EFFECTIVE DATE. 26 USC 418 note.

(a) Except as otherwise provided in this section, the amendments made by this title shall take effect on the date of the enactment of this Act.

(b) Subpart C of part I of subchapter D of chapter 1 of such Code (as added by this Act) shall take effect, with respect to each plan, on the first day of the first plan year beginning on or after the earlier of— *Ante*, p. 1271.

(1) the date on which the last collective-bargaining agreement providing for employer contributions under the plan, which was in effect on the date of the enactment of this Act, expires, without regard to extensions agreed to after such date of enactment, or

(2) 3 years after the date of the enactment of this Act.

(c) The amendments made by section 209 shall apply to taxable years ending after the date of the enactment of this Act.

TITLE III—AMENDMENTS TO TITLE I OF THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

SEC. 301. AMENDMENT OF THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.

Whenever in this title an amendment is expressed in terms of an amendment to a section or other provision, the reference is to a section or other provision of the Employee Retirement Income Security Act of 1974. 29 USC 1001 note.

SEC. 302. DEFINITION OF MULTIEMPLOYER PLAN. 29 USC 1002.

(a) Section 3 is amended by striking out paragraph (37) and inserting in lieu thereof the following:

"(37)(A) The term 'multiemployer plan' means a plan—

"(i) to which more than one employer is required to contribute,

"(ii) which is maintained pursuant to one or more collective bargaining agreements between one or more employee organizations and more than one employer, and

"(iii) which satisfies such other requirements as the Secretary may prescribe by regulation.

"(B) For purposes of this paragraph, all trades or businesses (whether or not incorporated) which are under common control within the meaning of section 4001(c)(1) are considered a single employer.

29 USC 1301.

"(C) Notwithstanding subparagraph (A), a plan is a multiemployer plan on and after its termination date if the plan was a multiemployer plan under this paragraph for the plan year preceding its termination date.

"Multiemployer plan."

"(D) For purposes of this title, notwithstanding the preceding provisions of this paragraph, for any plan year which began before the date of the enactment of the Multiemployer Pension Plan Amendments Act of 1980, the term 'multiemployer plan' means a plan described in section 3(37) of this Act as in effect immediately before such date.

Ante, p. 1208.

"(E) Within one year after the date of the enactment of the Multiemployer Pension Plan Amendments Act of 1980, a multiemployer plan may irrevocably elect, pursuant to procedures established by the corporation and subject to the provisions of sections 4403 (b) and (c), that the plan shall not be treated as a multiemployer plan for all purposes under this Act or the Internal Revenue Code of 1954 if for each of the last 3 plan years ending prior to the effective date of the Multiemployer Pension Plan Amendments Act of 1980—

26 USC 1.

"(i) the plan was not a multiemployer plan because the plan was not a plan described in section 3(37)(A)(iii) of this Act and section 414(f)(1)(C) of the Internal Revenue Code of 1954 (as such provisions were in effect on the day before the date of the enactment of the Multiemployer Pension Plan Amendments Act of 1980); and

Ante, p. 1288.

"(ii) the plan had been identified as a plan that was not a multiemployer plan in substantially all its filings with the corporation, the Secretary of Labor and the Secretary of the Treasury.".

SEC. 303. MINIMUM VESTING REQUIREMENTS.

29 USC 1053.

Section 203 is amended—

(1) by inserting after subsection (a)(3)(D) the following new subparagraph:

"(E)(i) A right to an accrued benefit derived from employer contributions under a multiemployer plan shall not be treated as forfeitable solely because the plan provides that benefits accrued as a result of service with the participant's employer before the employer had an obligation to contribute under the plan may not be payable if the employer ceases contributions to the multiemployer plan.

"(ii) A participant's right to an accrued benefit derived from employer contributions under a multiemployer plan shall not be treated as forfeitable solely because—

"(I) the plan is amended to reduce benefits under section 4244A or 4281, or

Ante, pp. 1257, 1261.

"(II) benefit payments under the plan may be suspended under section 4245 or 4281.";

Ante, p. 1259.

(2) in subsection (b)(1)(E), by striking out "and";

(3) in subsection (b)(1)(F), by striking out the period and inserting in lieu thereof "; and"; and

(4) by inserting after subsection (b)(1)(F) the following new subparagraph:

"(G) in the case of a multiemployer plan, years of service—

"(i) with an employer after—

"(I) a complete withdrawal of such employer from the plan (within the meaning of section 4203), or

Ante, p. 1218.

"(II) to the extent permitted by regulations prescribed by the Secretary of the Treasury, a partial withdrawal described in section 4205(b)(2)(A)(i) in connection with the decertification of the collective bargaining representative; and

Ante, p. 1221.

"(ii) with any employer under the plan after the termination date of the plan under section 4048.".

29 USC 1348.

SEC. 304. MINIMUM FUNDING REQUIREMENTS.

(a) Section 301 is amended by adding at the end thereof the following new subsections:

29 USC 1081.

"(c) This part applies, with respect to a terminated multiemployer plan to which section 4021 applies, until the last day of the plan year in which the plan terminates, within the meaning of section 4041A(a)(2).

29 USC 1321.

Ante, p. 1216.

"(d) Any amount of any financial assistance from the Pension Benefit Guaranty Corporation to any plan, and any repayment of such amount, shall be taken into account under this section in such manner as determined by the Secretary of the Treasury.".

29 USC 1082.

(b) Section 302 is amended—

(1) in subsection (b), by striking out "(40 plan years in the case of a multiemployer plan)" and "(20 plan years in the case of a multiemployer plan)" each place they appear;

(2) by inserting at the end of subsection (b) the following new paragraphs:

"(6) In the case of a plan which, immediately before the date of the enactment of the Multiemployer Pension Plan Amendments Act of 1980, was a multiemployer plan (within the meaning of section 3(37) as in effect immediately before such date)—

Ante, p. 1208.
Ante, p. 1291.

"(A) any amount described in paragraph (2)(B)(ii), (2)(B)(iii), or (3)(B)(i) of this subsection which arose in a plan year beginning before such date shall be amortized in equal annual installments (until fully amortized) over 40 plan years, beginning with the plan year in which the amount arose;

"(B) any amount described in paragraph (2)(B)(iv) or (3)(B)(ii) of this subsection which arose in a plan year beginning before such date shall be amortized in equal annual installments (until fully amortized) over 20 plan years, beginning with the plan year in which the amount arose;

"(C) any change in past service liability which arises during the period of 3 plan years beginning on or after such date, and results from a plan amendment adopted before such date, shall be amortized in equal annual installments (until fully amortized) over 40 plan years, beginning with the plan year in which the change arises; and

"(D) any change in past service liability which arises during the period of 2 plan years beginning on or after such date, and results from the changing of a group of participants from one benefit level to another benefit level under a schedule of plan benefits which—

"(i) was adopted before such date, and

"(ii) was effective for any plan participant before the beginning of the first plan year beginning on or after such date,

shall be amortized in equal annual installments (until fully amortized) over 40 plan years, beginning with the plan year in which the increase arises.

"(7) For purposes of this part—

"(A) Any amount received by a multiemployer plan in payment of all or part of an employer's withdrawal liability under part 1 of subtitle E of title IV shall be considered an amount contributed by the employer to or under the plan. The Secretary of the Treasury may prescribe by regulation additional charges and credits to a multiemployer plan's funding standard account to the extent necessary to prevent withdrawal liability payments from being unduly reflected as advance funding for plan liabilities.

Ante, p. 1217.

"(B) If a plan is not in reorganization in the plan year but was in reorganization in the immediately preceding plan year, any balance in the funding standard account at the close of such immediately preceding plan year—

"(i) shall be eliminated by an offsetting credit or charge (as the case may be), but

"(ii) shall be taken into account in subsequent plan years by being amortized in equal annual installments (until fully amortized) over 30 plan years.

The preceding sentence shall not apply to the extent of any accumulated funding deficiency under section 418B(a) of the Internal Revenue Code of 1954 as of the end of the last plan year that the plan was in reorganization.

Ante, p. 1274.

"(C) Any amount paid by a plan during a plan year to the Pension Benefit Guaranty Corporation pursuant to section 4222 or to a fund exempt under section 501(c)(22) of such Code pursuant to section 4223 shall reduce the amount of contributions considered received by the plan for the plan year.

Ante, p. 1240.
Ante, p. 1290.
Ante, p. 1241.

"(D) Any amount paid by an employer pending a final determination of the employer's withdrawal liability under part 1 of subtitle E of title IV and subsequently refunded to the employer by the plan shall be charged to the funding standard account in accordance with regulations prescribed by the Secretary.

"(E) For purposes of the full funding limitation under subsection (c)(7), unless otherwise provided by the plan, the accrued liability under a multiemployer plan shall not include benefits which are not nonforfeitable under the plan after the termination of the plan (taking into consideration section 411(d)(3) of the Internal Revenue Code of 1954).".; and

26 USC 411.

(3) by adding at the end of subsection (a) the following new paragraph:

"(3) In any plan year in which a multiemployer plan is in reorganization, the accumulated funding deficiency of the plan shall be determined under section 4243.".

Ante, p. 1252.

SEC. 305. APPLICATION OF INTERESTED PARTY RULES TO WITHDRAWAL LIABILITY PAYMENT FUNDS.

29 USC 1002.

Paragraph (14) of section 3 is amended by adding at the end thereof the following new sentence: "Any person who is a party in interest with respect to a plan to which a trust described in section 501(c)(22) of the Internal Revenue Code of 1954 is permitted to make payments under section 4223 shall be treated as a party in interest with respect to such trust.".

Ante, p. 1290.
Ante, p. 1241.

SEC. 306. LIQUIDATED DAMAGES WITH RESPECT TO DELINQUENT CONTRIBUTIONS.

(a) Part 5 of subtitle B of title I is amended by adding after section 514 the following new section:

"DELINQUENT CONTRIBUTIONS

"SEC. 515. Every employer who is obligated to make contributions to a multiemployer plan under the terms of the plan or under the terms of a collectively bargained agreement shall, to the extent not inconsistent with law, make such contributions in accordance with the terms and conditions of such plan or such agreement.". 29 USC 1145.

(b) Section 502 is amended by— 29 USC 1132.

(1) redesignating subsection (b) (1) and (2) as subsection (b)(1) (A) and (B), and adding at the end thereof the following new paragraph:

"(2) The Secretary shall not initiate an action to enforce section 515.";

(2) redesignating subsection (g) as paragraph (1) of such subsection and inserting "(other than an action described in paragraph (2))" between "title" and "by" in such redesignated paragraph (1), and adding at the end thereof the following new paragraph:

"(2) In any action under this title by a fiduciary for or on behalf of a plan to enforce section 515 in which a judgment in favor of the plan is awarded, the court shall award the plan—

"(A) the unpaid contributions,

"(B) interest on the unpaid contributions,

"(C) an amount equal to the greater of—

"(i) interest on the unpaid contributions, or

"(ii) liquidated damages provided for under the plan in an amount not in excess of 20 percent (or such higher percentage as may be permitted under Federal or State law) of the amount determined by the court under subparagraph (A),

"(D) reasonable attorney's fees and costs of the action, to be paid by the defendant, and

"(E) such other legal or equitable relief as the court deems appropriate.

For purposes of this paragraph, interest on unpaid contributions shall be determined by using the rate provided under the plan, or, if none, the rate prescribed under section 6621 of the Internal Revenue Code of 1954.". 26 USC 6621.

SEC. 307. ACTUARIAL STANDARDS.

Section 103(d) is amended by redesignating paragraphs (10) and (11) as paragraphs (11) and (12) and by adding after paragraph (9) the following new paragraph: 29 USC 1023.

"(10) A statement by the actuary which discloses—

"(A) any event which the actuary has not taken into account, and

"(B) any trend which, for purposes of the actuarial assumptions used, was not assumed to continue in the future, but only if, to the best of the actuary's knowledge, such event or trend may require a material increase in plan costs or required contribution rates.".

SEC. 308. EXEMPTIONS FROM PROHIBITED TRANSACTIONS.

(a) Section 408(b) is amended by adding at the end thereof the following: 29 USC 1108.

"(10) Any transaction required or permitted under part 1 subtitle E of title IV.

"(11) A merger of multiemployer plans, or the transfer assets or liabilities between multiemployer plans, determined the Pension Benefit Guaranty Corporation to meet the requir ments of section 4231.".

(b) Section 408 is amended by adding at the end thereof th following new subsection:

"(f) Section 406(b)(2) shall not apply to any merger or transf described in subsection (b)(11).".

SEC. 309. FIDUCIARY DUTIES.

Section 404(a)(1)(D) is amended by inserting "or title IV" after "thi title".

SEC. 310. REFUND OF CERTAIN WITHDRAWAL LIABILITY PAYMENTS.

Section 403(c) is amended—

(1) by striking out "or (3)" in paragraph (1) and inserting in lie thereof ", (3), or (4)"; and

(2) by adding at the end thereof the following new paragraph

"(4) In the case of a withdrawal liability payment which has bee determined to be an overpayment, paragraph (1) shall not prohibi the return of such payment to the employer within 6 months after th date of such determination.".

TITLE IV—MISCELLANEOUS PROVISIONS

SEC. 401. AMENDMENT OF THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.

Whenever in this title an amendment is expressed in terms of an amendment to a section or other provision, the reference is to a section or other provision of the Employee Retirement Income Security Act of 1974.

SEC. 402. RELATED TECHNICAL AMENDMENTS.

(a)(1) Section 4001 is amended—

(A) in subsection (a)(2), by inserting "(other than a multiemployer plan)" after "more than one employer";

(B) by striking out subsection (a)(3) and inserting in lieu thereof the following:

"(3) 'multiemployer plan' means a plan—

"(A) to which more than one employer is required to contribute,

"(B) which is maintained pursuant to one or more collective bargaining agreements between one or more employee organizations and more than one employer, and

"(C) which satisfies such other requirements as the Secretary of Labor may prescribe by regulation,

except that, in applying this paragraph—

"(i) a plan shall be considered a multiemployer plan on and after its termination date if the plan was a multiemployer plan under this paragraph for the plan year preceding such termination, and

"(ii) for any plan year which began before the date of the enactment of the Multiemployer Pension Plan Amendments Act of 1980, the term 'multiemployer plan' means a plan described in section 414(f) of the Internal Revenue Code of 1954 as in effect immediately before such date;";

(C) by striking out subsection (a)(6) and inserting in lieu thereof the following:

"(6) 'basic benefits' means benefits guaranteed under section 4022 (other than under section 4022(c)), or under section 4022A (other than under section 4022A(g));"; "Basic benefits." 29 USC 1322. *Ante*, p. 1210.

(D) in subsection (a)(7), by striking out the period and inserting in lieu thereof "or 4022A(g);";

(E) by inserting at the end of subsection (a) the following new paragraphs: Definitions.

"(8) 'nonforfeitable benefit' means, with respect to a plan, a benefit for which a participant has satisfied the conditions for entitlement under the plan or the requirements of this Act (other than submission of a formal application, retirement, completion of a required waiting period, or death in the case of a benefit which returns all or a portion of a participant's accumulated mandatory employee contributions upon the participant's death), whether or not the benefit may subsequently be reduced or suspended by a plan amendment, an occurrence of any condition, or operation of this Act or the Internal Revenue Code of 1954; 26 USC 1.

"(9) 'reorganization index' means the amount determined under section 4241(b); *Ante*, p. 1249.

"(10) 'plan sponsor' means, with respect to a multiemployer plan—

"(A) the plan's joint board of trustees, or

"(B) if the plan has no joint board of trustees, the plan administrator;

"(11) 'contribution base unit' means a unit with respect to which an employer has an obligation to contribute under a multiemployer plan, as defined in regulations prescribed by the Secretary of the Treasury; and

"(12) 'outstanding claim for withdrawal liability' means a plan's claim for the unpaid balance of the liability determined under part 1 of subtitle E for which demand has been made, valued in accordance with regulations prescribed by the corporation."; *Ante*, p. 1217.

(F) by adding the following new paragraphs at the end of subsection (c)(1) (as redesignated):

"(2) For purposes of this title, 'single-employer plan' means, except as otherwise specifically provided in this title, any plan which is not a multiemployer plan. "Single-employer plan."

"(3) For purposes of this title, except as otherwise provided in this title, contributions or other payments shall be considered made under a plan for a plan year if they are made within the period prescribed under section 412(c)(10) of the Internal Revenue Code of 1954. 26 USC 412.

"(4) For purposes of subtitle E, 'Secretary of the Treasury' means the Secretary of the Treasury or such Secretary's delegate.". "Secretary of the Treasury." *Ante*, p. 1217.

(2) Section 4003 is amended— 29 USC 1303.

(A) in subsection (a), by striking out "determine whether any person has violated or is about to violate" and inserting in lieu thereof "enforce";

(B) in subsection (e)(1), by striking out "redress violations of" and inserting in lieu thereof "enforce", and

(C) in subsection (f) by inserting at the end thereof the following new sentence: "In any suit, action, or proceeding in which the corporation is a party, or intervenes under section 4301, in any State court, the corporation may, without bond or security, *Ante*, p. 1263.

remove such suit, action, or proceeding from the State court to the United States District Court for the district or division embracing the place where the same is pending by following any procedure for removal now or hereafter in effect."

29 USC 1307. (3) Section 4007(a) is amended by inserting at the end thereof the following new sentence: "The corporation may waive or reduce premiums for a multiemployer plan for any plan year during which such plan receives financial assistance from the corporation under section 4261, except that any amount so waived or reduced shall be treated as financial assistance under such section.".

Ante, p. 1261.

29 USC 1321. (4) Section 4021(a) is amended by inserting in the last sentence "unless otherwise specifically indicated in this title," before "a successor plan".

(5) Subtitle B of title IV is amended by inserting after section 4022B (as added by section 102 of this Act) the following new section:

"PLAN FIDUCIARIES

29 USC 1323. 29 USC 1321. "SEC. 4023. Notwithstanding any other provision of this Act, a fiduciary of a plan to which section 4021 applies is not in violation of the fiduciary's duties as a result of any act or of any withholding of action required by this title.".

29 USC 1342. (6) Section 4042 is amended—

(A) in the last sentence of subsection (a), by striking out "such small" and inserting in lieu thereof "terminated";

(B) by redesignating subsection (b) as subsection (b)(1) and inserting at the end thereof the following new paragraphs:

"(2) Notwithstanding any other provision of this title—

"(A) upon the petition of a plan administrator or the corporation, the appropriate United States district court may appoint a trustee in accordance with the provisions of this section if the interests of the plan participants would be better served by the appointment of the trustee, and

"(B) upon the petition of the corporation, the appropriate United States district court shall appoint a trustee proposed by the corporation for a multiemployer plan which is in reorganization or to which section 4041A(d) applies, unless such appointment would be adverse to the interests of the plan participants and beneficiaries in the aggregate.

Ante, p. 1216.

"(3) The corporation and plan administrator may agree to the appointment of a trustee without proceeding in accordance with the requirements of paragraphs (1) and (2).";

(C) in the first sentence of subsection (c), by striking out "and" after "interests of the participants" and inserting in lieu thereof "or";

(D) in subsection (c), by striking out "further" each place it appears and inserting in lieu thereof "unreasonable";

(E) in subsection (d)(1)(A)—

(i) by striking out "and" in clause (iv);

(ii) by redesignating clause (v) as clause (vi) and by striking out the period at the end of such clause and inserting in lieu thereof "; and";

(iii) by inserting after clause (iv) the following new clause:

"(v) in the case of a multiemployer plan, to reduce benefits or suspend benefit payments under the plan, give appropriate notices, amend the plan, and perform other acts required or authorized by subtitle (E) to be performed by the plan sponsor or administrator;"; and

Ante, p. 1217.

(iv) by inserting after clause (vi) (as redesignated) the following new clause:

"(vii) to require the plan sponsor, the plan administrator, any contributing or withdrawn employer, and any employee organization representing plan participants to furnish any information with respect to the plan which the trustee may reasonably need in order to administer the plan.";

(F) in subsection (d)(1)(B)(i), by striking out "allocation requirements of section 4044" and inserting in lieu thereof "requirements of this title"; 29 USC 1344.

(G) in subsection (d)(1)(B)(iv), by striking out ", except to the extent that the corporation is an adverse party in a suit or proceeding";

(H) in subsection (d)(2)(B), by striking out "and";

(I) in subsection (d)(2)(C), by striking out the period and inserting in lieu thereof a comma; and

(J) by inserting after subsection (d)(2)(C) the following new subparagraphs;

"(D) each employer who is or may be liable to the plan under section part 1 of subtitle E, *Ante*, p. 1217.

"(E) each employer who has an obligation to contribute, within the meaning of section 4212(a), under a multiemployer plan, and *Ante*, p. 1233.

"(F) each employee organization which, for purposes of collective bargaining, represents plan participants employed by an employer described in subparagraph (C), (D), or (E).".

(7) Section 4044 is amended— 29 USC 1344.

(A) in subsection (a), by inserting "single-employer" before "defined benefit plan";

(B) in subsection (c), by inserting "single-employer" before "plan occurring during" and before "plan occurring after"; and

(C) in subsection (d)(1), by inserting "single-employer" before "plan may be distributed".

(8) Section 4048 is amended— 29 USC 1348.

(A) by inserting "(a)" before "For";

(B) by inserting "of a single-employer plan" after "date of termination"; and

(C) by adding at the end thereof the following new subsection:

"(b) For purposes of this title, the date of termination of a multiemployer plan is—

"(1) in the case of a plan terminated in accordance with the provisions of section 4041A, the date determined under subsection (b) of that section; or *Ante*, p. 1216.

"(2) in the case of a plan terminated in accordance with the provisions of section 4042, the date agreed to between the plan administrator and the corporation (or the trustee appointed under section 4042(b)(2), if any), or, if no agreement is reached, the date established by the court.". 29 USC 1342.

(b)(1) Section 208 is amended by striking out the last sentence and inserting in lieu thereof the following: "The preceding sentence shall not apply to any transaction to the extent that participants either before or after the transaction are covered under a multiemployer plan to which title IV of this Act applies." 29 USC 1058. 29 USC 1301.

(2) Section 403(a)(1) is amended by striking out "title" and inserting in lieu thereof "Act". 29 USC 1103.

(3) Section 3002 is amended by adding at the end thereof the following new subsection: 29 USC 1202.

"(e) The Secretary of the Treasury shall consult with the Pension Benefit Guaranty Corporation with respect to any proposed or final Consultation.

Ante, p. 1271. *Ante*, p. 1249.

regulation authorized by subpart C of part I of subchapter D of chapter 1 of the Internal Revenue Code of 1954, or by sections 4241 through 4245 of this Act, before publishing any such proposed or final regulation.".

SEC. 403. CONFORMING AMENDMENTS.

29 USC 1305.

(a) Section 4005 is amended—

(1) by striking out the second sentence of subsection (a) and inserting in lieu thereof the following: "One of the funds shall be used with respect to basic benefits guaranteed under section 4022, one of the funds shall be used with respect to basic benefits guaranteed under section 4022A, one of the funds shall be used with respect to nonbasic benefits guaranteed under section 4022 (if any), and the remaining fund shall be used with respect to nonbasic benefits guaranteed under section 4022A (if any), other than subsection (g)(2) thereof (if any).";

29 USC 1322. *Ante*, p. 1210.

(2) in subsection (b)(2)(A), by inserting "or 4022A" after "4022";

(3) by striking out subparagraph (B) of subsection (b)(2) and redesignating subparagraphs (C), (D), and (E) as subparagraphs (B), (C), and (D), respectively; and

(4) by adding at the end thereof the following new subsections:

"(d)(1) A fifth fund shall be established for the reimbursement of uncollectible withdrawal liability under section 4222, and shall be credited with the appropriate—

"(A) premiums, penalties, and interest charges collected under this title, and

"(B) earnings on investments of the fund or on assets credited to the fund.

The fund shall be available to make payments pursuant to the supplemental program established under section 4222, including those expenses and other charges determined to be appropriate by the corporation.

"(2) The corporation may invest amounts of the fund in such obligations as the corporation considers appropriate.

"(e)(1) A sixth fund shall be established for the supplemental benefit guarantee program provided under section 4022A(g)(2).

"(2) Such fund shall be credited with the appropriate—

"(A) premiums, penalties, and interest charges collected under section 4022A(g)(2), and

"(B) earnings on investments of the fund or on assets credited to the fund.

The fund shall be available for making payments pursuant to the supplemental benefit guarantee program established under section 4022A(g)(2), including those expenses and other charges determined to be appropriate by the corporation.

"(3) The corporation may invest amounts of the fund in such obligations as the corporation considers appropriate.

"(f)(1) Amounts in any fund established under this section may be used only for the purposes for which such fund was established and may not be used to make loans to (or on behalf of) any other fund or to finance any other activity of the corporation.

"(2) None of the funds borrowed under subsection (c) may be used to make loans to (or on behalf of) any fund other than a fund described in the second sentence of subsection (a).

"(3) Any repayment to the corporation of any amount paid out of any fund in connection with a multiemployer plan shall be deposited in such fund.".

29 USC 1307.

(b) Section 4007(a) is amended by striking out the second sentence.

(c) Section 4022 is amended— 29 USC 1322.

(1) in the section heading, by inserting "SINGLE-EMPLOYER PLAN" before "BENEFITS GUARANTEED";

(2) in subsection (a)—

(A) by inserting ", in accordance with this section," after "guarantee"; and

(B) by inserting "single-employer" before "plan which terminates"; and

(C) by striking out the words "the terms of";

(3) in subsection (b)(1), by striking out "(8)" and inserting in lieu thereof "(7)"; and

(4) by striking out paragraph (5) of subsection (b) and redesignating paragraphs (6), (7), and (8) of such subsection as paragraphs (5), (6), and (7), respectively.

(d) Section 4041 is amended— 29 USC 1341.

(1) in the section heading, by striking out "TERMINATION BY PLAN ADMINISTRATOR" and inserting in lieu thereof "TERMINATION OF SINGLE-EMPLOYER PLANS";

(2) in subsection (a), by inserting "single-employer" after "termination of a"; and

(3) by striking out subsection (g).

(e) Section 4046 is amended— 29 USC 1346.

(1) in paragraphs (2) and (3)—

(A) by inserting "or 4022A" after "4022"; and

(B) by inserting "basic" before "benefits"; and

(2) in paragraph (3), by striking out "4022(b)(5)" and inserting in lieu thereof "4022B".

(f) Section 4061 is amended to read as follows:

"AMOUNTS PAYABLE BY THE CORPORATION

"SEC. 4061. The corporation shall pay benefits under a single-employer plan terminated under this title subject to the limitations and requirements of subtitle B of this title. The corporation shall provide financial assistance to pay benefits under a multiemployer plan which is insolvent under section 4245 or 4281(d)(2)(A), subject to the limitations and requirements of subtitles B, C, and E of this title. Amounts guaranteed by the corporation under sections 4022 and 4022A shall be paid by the corporation only out of the appropriate fund. The corporation shall make payments under the supplemental program to reimburse multiemployer plans for uncollectible withdrawal liability only out of the fund established under section 4005(e).". 29 USC 1361. 29 USC 1321. *Ante*, pp. 1259, 1261. 29 USC 1321, 1341, *ante*, p. 1217. *Ante*, p. 1210. *Ante*, p. 1300.

(g) Section 4062(a) is amended by striking out "plan (other than a multiemployer plan)" and inserting in lieu thereof "single-employer plan". 29 USC 1362.

(h) Section 4063 is amended— 29 USC 1363.

(1) in the first sentence of subsection (a), by inserting "(other than a multiemployer plan)" after "makes contributions"; and

(2) in the second sentence of subsection (d), by inserting "(other than a multiemployer plan)" after "of a plan".

(i) Section 4064(a) is amended by inserting "(other than a multiemployer plan)" after "plan under which more than one employer makes contributions". 29 USC 1364.

(j) Section 4066 is amended by inserting "(other than a multiemployer plan)" after "more than one employer". 29 USC 1366.

29 USC 1303.

(k) Subsection (f) of section 4003 is amended by striking out "Any" and inserting in lieu thereof "Except as provided in section 4301(a)(2), any".

29 USC 1302.

(l) Section 4002(b)(3) is amended by inserting "and such other bylaws, rules, and regulations as may be necessary to carry out the purposes of this title" after "Act".

SEC. 404. CLERICAL AMENDMENTS.

The table of contents in section 1 is amended—

(1) by striking out the items relating to sections 4022 and 4023 and inserting in lieu thereof the following new items:

"Sec. 4022. Single-employer plan benefits guaranteed.
"Sec. 4022A. Multiemployer plan benefits guaranteed.
"Sec. 4022B. Aggregate limit on benefits guaranteed.
"Sec. 4023. Plan fiduciaries.";

(2) by striking out the item relating to section 4041 and inserting in lieu thereof the following new items:

"Sec. 4041. Termination of single-employer plans.
"Sec. 4041A. Termination of multiemployer plans.";

and

(3) by striking out all after the item relating to section 4068 and inserting in lieu thereof the following new items:

"Subtitle E—Special Provisions for Multiemployer Plans

"PART 1—EMPLOYER WITHDRAWALS

"Sec. 4201. Withdrawal liability established.
"Sec. 4202. Determination and collection of liability; notification of employer.
"Sec. 4203. Complete withdrawal.
"Sec. 4204. Sale of assets.
"Sec. 4205. Partial withdrawals.
"Sec. 4206. Adjustment for partial withdrawal.
"Sec. 4207. Reduction or waiver of complete withdrawal liability.
"Sec. 4208. Reduction or abatement of partial withdrawal liability.
"Sec. 4209. De minimis rule.
"Sec. 4210. No withdrawal liability for certain temporary contribution obligation periods.
"Sec. 4211. Methods for computing withdrawal liability.
"Sec. 4212. Obligation to contribute; special rules.
"Sec. 4213. Actuarial assumptions, etc.
"Sec. 4214. Application of plan amendments.
"Sec. 4215. Plan notification to corporation of potentially significant withdrawals.
"Sec. 4216. Special rules for section 404(c) plans.
"Sec. 4217. Application of part in case of certain pre-1980 withdrawals.
"Sec. 4218. Withdrawal not to occur merely because of change in business form or suspension of contributions during labor dispute.
"Sec. 4219. Notice, collection, etc., of withdrawal liability.
"Sec. 4220. Approval of amendments.
"Sec. 4221. Resolution of disputes.
"Sec. 4222. Reimbursements for uncollectible withdrawal liability.
"Sec. 4223. Withdrawal liability payment fund.
"Sec. 4224. Alternative method of withdrawal liability payments.
"Sec. 4225. Limitation on withdrawal liability.

"PART 2—MERGER OR TRANSFER OF PLAN ASSETS OR LIABILITIES

"Sec. 4231. Mergers and transfers between multiemployer plans.
"Sec. 4232. Transfers between a multiemployer plan and a single-employer plan.
"Sec. 4233. Partition.
"Sec. 4234. Asset transfer rules.
"Sec. 4235. Transfers pursuant to change in bargaining representative.

"PART 3—REORGANIZATION; MINIMUM CONTRIBUTION REQUIREMENT FOR MULTIEMPLOYER PLANS

"Sec. 4241. Reorganization status.
"Sec. 4242. Notice of reorganization and funding requirements.
"Sec. 4243. Minimum contribution requirement.
"Sec. 4244. Overburden credit against minimum contribution requirement.
"Sec. 4244A. Adjustments in accrued benefits.
"Sec. 4245. Insolvent plans.

"PART 4—FINANCIAL ASSISTANCE

"Sec. 4261. Financial assistance.

"PART 5—BENEFITS AFTER TERMINATION

"Sec. 4281. Benefits under certain terminated plans.

"PART 6—ENFORCEMENT

"Sec. 4301. Civil actions.
"Sec. 4302. Penalty for failure to provide notice.
"Sec. 4303. Election of plan status.

"Subtitle F—Transition Rules and Effective Dates

"Sec. 4401. Amendment to Internal Revenue Code of 1954.
"Sec. 4402. Transition rules and effective dates.
"Sec. 4403. Election of plan status.".

SEC. 405. ACTION TAKEN BEFORE REGULATIONS ARE PRESCRIBED. 29 USC 1461 note.

(a) Except as otherwise provided in the amendments made by this Act and in subsection (b), if the way in which any such amendment will apply to a particular circumstance is to be set forth in regulations, any reasonable action during the period before such regulations take effect shall be treated as complying with such regulations for such period.

(b) Subsection (a) shall not apply to any action which violates any instruction issued, or temporary rule prescribed, by the agency having jurisdiction but only if such instruction or rule was published, or furnished to the party taking the action, before such action was taken.

SEC. 406. PENSION BENEFIT GUARANTY CORPORATION PUT ON BUDGET.

(a) Paragraph (2) of section 4002(g) is amended to read as follows: 29 USC 1302.

"(2) The receipts and disbursements of the corporation in the discharge of its functions shall be included in the totals of the budget of the United States Government. The United States is not liable for any obligation or liability incurred by the corporation.".

(b) The amendment made by subsection (a) shall apply to fiscal years beginning after September 30, 1980. Effective date. 29 USC 1302 note.

SEC. 407. CHURCH PLANS. 29 USC 1002.

(a) Section 3(33) is amended to read as follows:

"(33)(A) The term 'church plan' means a plan established and maintained (to the extent required in clause (ii) of subparagraph (B)) for its employees (or their beneficiaries) by a church or by a convention or association of churches which is exempt from tax under section 501 of the Internal Revenue Code of 1954. "Church plan." 26 USC 501.

"(B) The term 'church plan' does not include a plan—

"(i) which is established and maintained primarily for the benefit of employees (or their beneficiaries) of such church or convention or association of churches who are employed in

connection with one or more unrelated trades or businesses (within the meaning of section 513 of the Internal Revenue Code of 1954), or

26 USC 513.

"(ii) if less than substantially all of the individuals included in the plan are individuals described in subparagraph (A) or in clause (ii) of subparagraph (C) (or their beneficiaries).

"(C) For purposes of this paragraph—

"(i) A plan established and maintained for its employees (or their beneficiaries) by a church or by a convention or association of churches includes a plan maintained by an organization, whether a civil law corporation or otherwise, the principal purpose or function of which is the administration or funding of a plan or program for the provision of retirement benefits or welfare benefits, or both, for the employees of a church or a convention or association of churches, if such organization is controlled by or associated with a church or a convention or association of churches.

"(ii) The term employee of a church or a convention or association of churches includes—

"(I) a duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry, regardless of the source of his compensation;

"(II) an employee of an organization, whether a civil law corporation or otherwise, which is exempt from tax under section 501 of the Internal Revenue Code of 1954 and which is controlled by or associated with a church or a convention or association of churches; and

26 USC 501.

"(III) an individual described in clause (v).

"(iii) A church or a convention or association of churches which is exempt from tax under section 501 of the Internal Revenue Code of 1954 shall be deemed the employer of any individual included as an employee under clause (ii).

"(iv) An organization, whether a civil law corporation or otherwise, is associated with a church or a convention or association of churches if it shares common religious bonds and convictions with that church or convention or association of churches.

"(v) If an employee who is included in a church plan separates from the service of a church or a convention or association of churches or an organization, whether a civil law corporation or otherwise, which is exempt from tax under section 501 of the Internal Revenue Code of 1954 and which is controlled by or associated with a church or a convention or association of churches, the church plan shall not fail to meet the requirements of this paragraph merely because the plan—

"(I) retains the employee's accrued benefit or account for the payment of benefits to the employee or his beneficiaries pursuant to the terms of the plan; or

"(II) receives contributions on the employee's behalf after the employee's separation from such service, but only for a period of 5 years after such separation, unless the employee is disabled (within the meaning of the disability provisions of the church plan or, if there are no such provisions in the church plan, within the meaning of section 72(m)(7) of the Internal Revenue Code of 1954) at the time of such separation from service.

26 USC 72.

"(D)(i) If a plan established and maintained for its employees (or their beneficiaries) by a church or by a convention or association of

churches which is exempt from tax under section 501 of the Internal Revenue Code of 1954 fails to meet one or more of the requirements of this paragraph and corrects its failure to meet such requirements within the correction period, the plan shall be deemed to meet the requirements of this paragraph for the year in which the correction was made and for all prior years. 26 USC 501.

"(ii) If a correction is not made within the correction period, the plan shall be deemed not to meet the requirements of this paragraph beginning with the date on which the earliest failure to meet one or more of such requirements occurred.

"(iii) For purposes of this subparagraph, the term 'correction period' means— "Correction period."

"(I) the period ending 270 days after the date of mailing by the Secretary of a notice of default with respect to the plan's failure to meet one or more of the requirements of this paragraph; or

"(II) any period set by a court of competent jurisdiction after a final determination that the plan fails to meet such requirements, or, if the court does not specify such period, any reasonable period determined by the Secretary on the basis of all the facts and circumstances, but in any event not less than 270 days after the determination has become final; or

"(III) any additional period which the Secretary determines is reasonable or necessary for the correction of the default,

whichever has the latest ending date.".

(b) Section 414(e) of the Internal Revenue Code of 1954 (defining church plan) is amended to read as follows: 26 USC 414.

"(e) CHURCH PLAN.—

"(1) IN GENERAL.—For purposes of this part, the term 'church plan' means a plan established and maintained (to the extent required in paragraph (2)(B)) for its employees (or their beneficiaries) by a church or by a convention or association of churches which is exempt from tax under section 501.

"(2) CERTAIN PLANS EXCLUDED.—The term 'church plan' does not include a plan—

"(A) which is established and maintained primarily for the benefit of employees (or their beneficiaries) of such church or convention or association of churches who are employed in connection with one or more unrelated trades or businesses (within the meaning of section 513); or 26 USC 513.

"(B) if less than substantially all of the individuals included in the plan are individuals described in paragraph (1) or (3)(B) (or their beneficiaries).

"(3) DEFINITIONS AND OTHER PROVISIONS.—For purposes of this subsection—

"(A) TREATMENT AS CHURCH PLAN.—A plan established and maintained for its employees (or their beneficiaries) by a church or by a convention or association of churches includes a plan maintained by an organization, whether a civil law corporation or otherwise, the principal purpose or function of which is the administration or funding of a plan or program for the provision of retirement benefits or welfare benefits, or both, for the employees of a church or a convention or association of churches, if such organization is controlled by or associated with a church or a convention or association of churches.

"(B) EMPLOYEE DEFINED.—The term employee of a church or a convention or association of churches shall include—

"(i) a duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry, regardless of the source of his compensation;

"(ii) an employee of an organization, whether a civil law corporation or otherwise, which is exempt from tax under section 501 and which is controlled by or associated with a church or a convention or association of churches; and

26 USC 501.

"(iii) an individual described in subparagraph (E).

"(C) CHURCH TREATED AS EMPLOYER.—A church or a convention or association of churches which is exempt from tax under section 501 shall be deemed the employer of any individual included as an employee under subparagraph (B).

"(D) ASSOCIATION WITH CHURCH.—An organization, whether a civil law corporation or otherwise, is associated with a church or a convention or association of churches if it shares common religious bonds and convictions with that church or convention or association of churches.

"(E) SPECIAL RULE IN CASE OF SEPARATION FROM PLAN.—If an employee who is included in a church plan separates from the service of a church or a convention or association of churches or an organization described in clause (ii) of paragraph (3)(B), the church plan shall not fail to meet the requirements of this subsection merely because the plan—

"(i) retains the employee's accrued benefit or account for the payment of benefits to the employee or his beneficiaries pursuant to the terms of the plan; or

"(ii) receives contributions on the employee's behalf after the employee's separation from such service, but only for a period of 5 years after such separation, unless the employee is disabled (within the meaning of the disability provisions of the church plan or, if there are no such provisions in the church plan, within the meaning of section 72(m)(7)) at the time of such separation from service.

26 USC 72.

"(4) CORRECTION OF FAILURE TO MEET CHURCH PLAN REQUIREMENTS.—

"(A) IN GENERAL.—If a plan established and maintained for its employees (or their beneficiaries) by a church or by a convention or association of churches which is exempt from tax under section 501 fails to meet one or more of the requirements of this subsection and corrects its failure to meet such requirements within the correction period, the plan shall be deemed to meet the requirements of this subsection for the year in which the correction was made and for all prior years.

"(B) FAILURE TO CORRECT.—If a correction is not made within the correction period, the plan shall be deemed not to meet the requirements of this subsection beginning with the date on which the earliest failure to meet one or more of such requirements occurred.

"(C) CORRECTION PERIOD DEFINED.—The term 'correction period' means—

"(i) the period ending 270 days after the date of mailing by the Secretary of a notice of default with respect to the plan's failure to meet one or more of the requirements of this subsection;

"(ii) any period set by a court of competent jurisdiction after a final determination that the plan fails to meet such requirements, or, if the court does not specify such period, any reasonable period determined by the Secretary on the basis of all the facts and circumstances, but in any event not less than 270 days after the determination has become final; or

"(iii) any additional period which the Secretary determines is reasonable or necessary for the correction of the default,

whichever has the latest ending date.".

(c) The amendments made by this section shall be effective as of January 1, 1974. Effective date. 26 USC 414 note.

SEC. 408. DEDUCTIBILITY OF PAYMENTS TO PLAN BY A CORPORATION OPERATING PUBLIC TRANSPORTATION SYSTEM ACQUIRED BY A STATE. 26 USC 404 note.

(a) For purposes of subsection (g) of section 404 of the Internal Revenue Code of 1954 (relating to certain employer liability payments considered as contributions), as amended by section 205 of this Act, any payment made to a plan covering employees of a corporation operating a public transportation system shall be treated as a payment described in paragraph (1) of such subsection if—

(1) such payment is made to fund accrued benefits under the plan in conjunction with an acquisition by a State (or agency or instrumentality thereof) of the stock or assets of such corporation, and

(2) such acquisition is pursuant to a State public transportation law enacted after June 30, 1979, and before January 1, 1980.

(b) The provisions of this section shall apply to payments made after June 29, 1980.

SEC. 409. TREATMENT OF CERTAIN SEVERANCE PAY ARRANGEMENTS AND SUPPLEMENTAL RETIREMENT INCOME PAYMENTS AS WELFARE PLANS.

Paragraph (2) of section 3 is amended— 29 USC 1002.

(1) by striking out "The" and inserting in lieu thereof "(A) Except as provided in subparagraph (B), the",

(2) by striking out "(A)" and inserting in lieu thereof "(i)",

(3) by striking out "(B)" and inserting in lieu thereof "(ii)", and

(4) by adding at the end thereof the following new subparagraph:

"(B) The Secretary may by regulation prescribe rules consistent with the standards and purposes of this Act providing one or more exempt categories under which—

"(i) severance pay arrangements, and

"(ii) supplemental retirement income payments, under which the pension benefits of retirees or their beneficiaries are supplemented to take into account some portion or all of the increases in the cost of living (as determined by the Secretary of Labor) since retirement,

shall, for purposes of this title, be treated as welfare plans rather than pension plans. In the case of any arrangement or payment a principal effect of which is the evasion of the standards or purposes of this Act applicable to pension plans, such arrangement or payment shall be treated as a pension plan.".

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29 USC 1103.

SEC. 410. REFUND OF MISTAKEN CONTRIBUTIONS.

(a) Paragraph (2)(A) of section 403(c) is amended to read as follows:

"(2)(A) In the case of a contribution, or a payment of withdrawal liability under part 1 of subtitle E of part iv—

Ante, p. 1217.

"(i) made by an employer to a plan (other than a multiemployer plan) by a mistake of fact, paragraph (1) shall not prohibit the return of such contribution to the employer within one year after the payment of the contribution, and

"(ii) made by an employer to a multiemployer plan by a mistake of fact or law (other than a mistake relating to whether the plan is described in section 401(a) of the Internal Revenue Code of 1954 or the trust which is part of such plan is exempt from taxation under section 501(a) of such Code), paragraph (1) shall not prohibit the return of such contribution or payment to the employer within 6 months after the plan administrator determines that the contribution was made by such a mistake.".

26 USC 401.

26 USC 501.

(b) Paragraph (2) of section 401(a) of the Internal Revenue Code of 1954 (relating to exclusive benefit of employees and beneficiaries) is amended by inserting before the semicolon at the end thereof the following: "(but this paragraph shall not be construed, in the case of a multiemployer plan, to prohibit the return of a contribution within 6 months after the plan administrator determines that the contribution was made by a mistake of fact or law (other than a mistake relating to whether the plan is described in section 401(a) or the trust which is part of such plan is exempt from taxation under section 501(a))".

26 USC 401.

Effective date.
26 USC 401 note.

(c) The amendment made by this section shall take effect on January 1, 1975, except that in the case of contributions received by a collectively bargained plan maintained by more than one employer before the date of enactment of this Act, any determination by the plan administrator that any such contribution was made by mistake of fact or law before such date shall be deemed to have been made on such date of enactment.

SEC. 411. DEFINITION OF EMPLOYEE PENSION BENEFIT PLAN.

29 USC 1051.

(a) Section 201 of the Employee Retirement Income Security Act of 1974 is amended by adding at the end thereof the following new subsection:

"(8) Any plan, fund or program under which an employer, all of whose stock is directly or indirectly owned by employees, former employees or their beneficiaries, proposes through an unfunded arrangement to compensate retired employees for benefits which were forfeited by such employees under a pension plan maintained by a former employer prior to the date such pension plan became subject to this Act.".

29 USC 1081.

(b) Section 301(a) of the Employee Retirement Income Security Act of 1974 is amended by adding at the end thereof the following new paragraph:

"(10) Any plan, fund or program under which an employer, all of whose stock is directly or indirectly owned by employees, former employees or their beneficiaries, proposes through an unfunded arrangement to compensate retired employees for benefits which were forfeited by such employees under a pension plan maintained by a former employer prior to the date such pension plan became subject to this Act.".

29 USC 1103.

(c) Section 403(b) of ERISA is amended by adding at the end thereof the following new paragraph (6):

"(6) Any plan, fund or program under which an employer, all of whose stock is directly or indirectly owned by employees, former employees or their beneficiaries, proposes through an unfunded arrangement to compensate retired employees for benefits which were forfeited by such employees under a pension plan maintained by a former employer prior to the date such pension plan became subject to this Act.".

SEC. 412. STUDIES BY PENSION BENEFIT GUARANTY CORPORATION AND SECRETARY OF LABOR.

29 USC 1306 note.

(a)(1) The Pension Benefit Guaranty Corporation shall conduct a separate study with respect to—

(A) the advantages and disadvantages of establishing a graduated premium rate schedule under section 4006 of the Employee Retirement Income and Security Act of 1974 which is based on risk, and

Ante, p. 1264.

(B) the necessity of adopting special rules in cases of union-mandated withdrawal from multiemployer pension plans.

Report to Congress.

(2) The Corporation shall report to the Congress the results of the studies conducted under paragraph (1), including its recommendations with respect thereto.

29 USC 1001a note.

(b)(1) The Secretary of Labor shall study the feasibility of requiring collective bargaining on both the issues of contributions to, and benefits from, multiemployer plans.

Report to Congress.

(2) The Secretary shall submit a report on the study conducted under paragraph (1) to the Congress within 3 years of the date of the enactment of this Act.

SEC. 413. STUDY BY GENERAL ACCOUNTING OFFICE; HEARINGS REQUIRED.

29 USC 1001 note.

(a)(1) The Comptroller General of the United States shall conduct a study of the effects of the amendments made by, and the provisions of, this Act on—

(A) participants, beneficiaries, employers, employee organizations, and other parties affected by this Act, and

(B) the self-sufficiency of the fund established under section 4005 of the Employee Retirement Income Security Act of 1974 with respect to benefits guaranteed under section 4022A of such Act, taking into account the financial conditions of multiemployer plans and employers.

Ante, p. 1300.

Ante, p. 1210.

Report to Congress.

(2)(A) The Comptroller General shall report to the Congress no later than June 30, 1985, the results of the study conducted under paragraph (1), including his recommendations with respect thereto.

Public availability.

(B) The report submitted under subparagraph (A) shall be made available to the public.

Consultation with congressional committees.

(b) In conducting the study under subsection (a)(1), the Comptroller General shall consult with the Committees on Finance and Labor and Human Resources of the Senate and the Committees on Education and Labor and Ways and Means of the House of Representatives.

(c) The committees described in subsection (b) shall conduct hearings on the report and recommendations submitted under subsection (a)(2).

Information accessibility.

(d) For purposes of conducting the study required by this section, the Comptroller General, or any of his duly authorized representatives, shall have access to and the right to examine and copy any books, documents, papers, records, or other recorded information—

(1) within the possession or control of the administrator or the sponsor of any plan, and

(2) which the Comptroller General or his representative finds in his own judgment, pertinent to such study.

Confidentiality.

The Comptroller General shall not disclose the identity of any individual in making any information obtained under this subsection available to the public.

SEC. 414. TREATMENT OF CERTAIN RETIREMENT BENEFITS.

26 USC 3304.

(a) GENERAL RULE.—Paragraph (15) of section 3304(a) of the Internal Revenue Code of 1954 (relating to requirements for approval of State laws) is amended by striking out the semicolon at the end thereof and inserting in lieu thereof the following:

"except that—

"(A) the requirements of this paragraph shall apply to any pension, retirement or retired pay, annuity, or other similar periodic payment only if—

"(i) such pension, retirement or retired pay, annuity, or similar payment is under a plan maintained (or contributed to) by a base period employer or chargeable employer (as determined under applicable law), and

"(ii) in the case of such a payment not made under the Social Security Act or the Railroad Retirement Act of 1974 (or the corresponding provisions of prior law), services performed for such employer by the individual after the beginning of the base period (or remuneration for such services) affect eligibility for, or increase the amount of, such pension, retirement or retired pay, annuity, or similar payment, and

42 USC 1305.
45 USC 231t.

"(B) the State law may provide for limitations on the amount of any such a reduction to take into account contributions made by the individual for the pension, retirement or retired pay, annuity, or other similar periodic payment;".

26 USC 3304 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to certifications of States for 1981 and subsequent years.

SEC. 415. INCREASE IN LENGTH OF SERVICE IN ARMED FORCES REQUIRED FOR EX-SERVICEMEN TO BE ELIGIBLE FOR UNEMPLOYMENT BENEFITS.

(a) GENERAL RULE.—Subparagraph (A) of section 8521(a)(1) of title 5 of the United States Code is amended by striking out "90 days or more" and inserting in lieu thereof "365 days or more".

5 USC 8521 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to determinations of Federal service in the case of individuals filing claims for unemployment compensation on or after October 1, 1980.

SEC. 416. CESSATION OF EXTENDED BENEFITS WHEN PAID UNDER AN INTERSTATE CLAIM IN A STATE WHERE EXTENDED BENEFIT PERIOD IS NOT IN EFFECT.

26 USC 3304 note.

(a) GENERAL RULE.—Section 202 of the Federal-State Extended Unemployment Compensation Act of 1970 is amended by adding at the end thereof the following new subsection:

"Cessation of Extended Benefits When Paid Under an Interstate Claim in a State Where Extended Benefit Period Is Not in Effect

"(c)(1) Except as provided in paragraph (2), payment of extended compensation shall not be made to any individual for any week if—

"(A) extended compensation would (but for this subsection) have been payable for such week pursuant to an interstate claim filed in any State under the interstate benefit payment plan, and

"(B) an extended benefit period is not in effect for such week in such State.

"(2) Paragraph (1) shall not apply with respect to the first 2 weeks for which extended compensation is payable (determined without regard to this subsection) pursuant to an interstate claim filed under the interstate benefit payment plan to the individual from the extended compensation account established for the benefit year.

"(3) Section 3304(a)(9)(A) of the Internal Revenue Code of 1954 shall not apply to any denial of compensation required under this subsection." 26 USC 3304.

(b) EFFECTIVE DATE.— 26 USC 3304 note.

(1) IN GENERAL.—The amendment made by subsection (a) shall apply to weeks of unemployment beginning after October 1, 1980; except that such amendment shall not be a requirement of any State law under section 3304(a)(11) of the Internal Revenue Code of 1954 for any week which begins before June 1, 1981.

(2) SPECIAL RULE FOR CERTAIN STATES.—In the case of any State the legislature of which does not meet in a regular session which begins during calendar year 1981 and before April 1, 1981, paragraph (1) shall be applied by substituting "June 1, 1982" for "June 1, 1981".

Approved September 26, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORTS No. 96-869, pt. I (Comm. on Education and Labor), pt. II (Comm. on Ways and Means) and No. 96-1343 (Comm. of Conference).

CONGRESSIONAL RECORD, Vol. 126 (1980):

May 21, 22, considered and passed House.

July 29, considered and passed Senate, amended, in lieu of S. 1076.

July 31, Aug. 1, 25, House concurred in Senate amendment with an amendment.

Aug. 26, Senate concurred in House amendment with amendments.

Aug. 28, House disagreed to Senate amendments.

Sept. 18, Senate agreed to conference report.

Sept. 19, House agreed to conference report.

Public Law 96-365
96th Congress

An Act

Sept. 26, 1980
[S. 1125]

To improve and expand the Federal crop insurance program, and for other purposes.

Federal Crop Insurance Act of 1980.
7 USC 1501 note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Crop Insurance Act of 1980".

TITLE I—FEDERAL CROP INSURANCE PROGRAM

CAPITAL STOCK

Appropriation authorization.
7 USC 1504.

SEC. 101. (a) Effective October 1, 1980, section 504(a) of the Federal Crop Insurance Act is amended by striking out "$200,000,000" and inserting in lieu thereof "$500,000,000".

(b) Section 504 of the Federal Crop Insurance Act is amended by adding after subsection (c) a new subsection (d) as follows:

Receipts for payments, cancellation.

"(d) Within thirty days after the date of enactment of the Federal Crop Insurance Act of 1980, the Secretary of the Treasury shall cancel, without consideration, receipts for payments for or on account of the stock of the Federal Crop Insurance Corporation outstanding on such date of enactment and such receipts shall cease to be liabilities of the Corporation.".

BOARD OF DIRECTORS: MEMBERSHIP AND COMPENSATION

7 USC 1505.

SEC. 102. (a) Section 505(a) of the Federal Crop Insurance Act is amended by—

(1) amending the second sentence to read as follows: "The Board shall consist of the manager of the Corporation, the Under Secretary or Assistant Secretary of Agriculture responsible for the Federal crop insurance program, the Under Secretary or Assistant Secretary of Agriculture responsible for the farm credit programs of the Department of Agriculture, one person experienced in the crop insurance business who is not otherwise employed by the Federal Government, and three active farmers who are not otherwise employed by the Federal Government."; and

(2) adding at the end thereof a new sentence as follows: "The Secretary, in appointing the three active farmers who are not otherwise employed by the Federal Government, shall ensure that such members are policyholders and are from different geographic areas of the United States, in order that diverse agricultural interests in the United States are at all times represented on the Board.".

Vacancies.

(b) Section 505(b) of the Federal Crop Insurance Act is amended by striking out "three" wherever that word appears therein and inserting in lieu thereof "four".

(c) The second sentence of section 505(c) of the Federal Crop Insurance Act is amended to read as follows: "The Directors of the

Corporation who are not employed by the Federal Government shall be paid such compensation for their services as Directors as the Secretary of Agriculture shall determine, but such compensation shall not exceed the daily equivalent of the rate prescribed for grade GS-18 under section 5332 of title 5 of the United States Code when actually employed, and actual necessary traveling and subsistence expenses, or a per diem allowance in lieu of subsistence expenses, as authorized by section 5703 of title 5 of the United States Code for persons in Government service employed intermittently, when on the business of the Corporation away from their homes or regular places of business.". 5 USC 5332 note.

GENERAL POWERS FOR THE CORPORATION

SEC. 103. Section 506 of the Federal Crop Insurance Act is amended by— 7 USC 1506.

(1) in subsection (c), striking out "make contracts and";

(2) amending subsection (d) to read as follows:

"(d) subject to the provisions of section 508(c), may sue and be sued in its corporate name, but no attachment, injunction, garnishment, or other similar process, mesne or final, shall be issued against the Corporation or its property. The district courts of the United States, including the district courts of the District of Columbia and of any territory or possession, shall have exclusive original jurisdiction, without regard to the amount in controversy, of all suits brought by or against the Corporation. The Corporation may intervene in any court in any suit, action, or proceeding in which it has an interest. Any suit against the Corporation shall be brought in the District of Columbia, or in the district wherein the plaintiff resides or is engaged in business;"; *Post*, p. 1315.

(3) in subsection (f), striking out "free"; and

(4) at the end of subsection (j), striking out the period and inserting in lieu thereof "; and", and adding at the end of section 506 a new subsection (k) as follows:

"(k) may enter into and carry out contracts or agreements necessary in the conduct of its business, as determined by the Board. State and local laws or rules shall not apply to contracts or agreements of the Corporation or the parties thereto to the extent that such contracts or agreements provide that such laws or rules shall not apply, or to the extent that such laws or rules are inconsistent with such contracts or agreements.".

USE OF PRIVATE INSURANCE COMPANIES AND OTHER FEDERAL AGENCIES

SEC. 104. Section 507 of the Federal Crop Insurance Act is amended by— 7 USC 1507.

(1) amending subsection (c) to read as follows:

"(c) In the administration of this title, the Board shall, to the maximum extent possible, (1) establish or use committees or associations of producers and make payments to them to cover the administrative and program expenses, as determined by the Board, incurred by them in cooperating in carrying out this title, (2) contract with private insurance companies and reimburse such companies for the administrative and program expenses, as determined by the Board, incurred by them, under terms and provisions and rates of compensation consistent with those generally prevailing in the insurance industry, and (3) encourage the sale of Federal crop insurance

through licensed private insurance agents and brokers and give the insured the right to renew such insurance for successive terms through such agents and brokers, in which case the agent or broker shall be reasonably compensated from premiums paid by the insured for such sales and renewals recognizing the function of the agent or broker to provide continuing services while the insurance is in effect: *Provided*, That such compensation shall not be included in computations establishing premium rates. The Board shall provide such agents and brokers with indemnification, including costs and reasonable attorney fees, from the Corporation for errors or omissions on the part of the Corporation or its contractors for which the agent or broker is sued or held liable, except to the extent the agent or broker has caused the error or omission."; and

Indemnification.

(2) adding a new subsection (f) as follows:

"(f) The Board should use, to the maximum extent possible, the resources, data, boards, and the committees of (1) the Soil Conservation Service, in assisting the Board in the classification of land as to risk and production capability and in the development of acceptable conservation practices; (2) the Forest Service, in assisting the Board in the development of a timber insurance plan; (3) the Agricultural Stabilization and Conservation Service, in assisting the Board in the determination of individual producer yields and in serving as a local contact point for farmers where the Board deems necessary; and (4) other Federal agencies in any way the Board deems necessary in carrying out this title.".

FEDERAL CROP INSURANCE EXPANSION AND EXTENT OF COVERAGE

7 USC 1508.

SEC. 105. Effective with respect to the 1981 and subsequent crops, subsection (a) of section 508 of the Federal Crop Insurance Act is amended by—

(1) striking out all that follows the subsection designation down through the end of the sixth sentence, which begins, "Reinsurance for private insurance companies . . .", and inserting in lieu thereof the following: "If sufficient actuarial data are available, as determined by the Board, to insure producers of agricultural commodities grown in the United States under any plan or plans of insurance determined by the Board to be adapted to the agricultural commodity involved. Such insurance shall be against loss of the insured commodity due to unavoidable causes, including drought, flood, hail, wind, frost, winterkill, lightning, fire, excessive rain, snow, wildlife, hurricane, tornado, insect infestation, plant disease, and such other unavoidable causes as may be determined by the Board.

"Field."

Except in the case of tobacco, insurance shall not extend beyond the period the insured commodity is in the field. For the purpose of the foregoing sentence, in the case of aquacultural species, the term 'field' means the environment in which the commodity is produced.";

(2) striking out the seventh sentence, which begins, "Any insurance offered against loss in yield . . .", and inserting in lieu thereof the following: "Any insurance offered against loss in yield shall make available to producers protection against loss in yield that covers 75 per centum of the recorded or appraised average yield of the commodity on the insured farm for a representative period (subject to such adjustments as the Board may prescribe to the end that the average yields fixed for farms in the same area, which are subject to the same conditions, may be fair and just). In addition, the Corporation shall make avail-

ble to producers lesser levels of yield coverage, including a level of coverage at 50 per centum of the recorded or appraised average yield, as adjusted. The Corporation shall not make available to producers any level of coverage in excess of 75 per centum of the recorded or appraised average yield, as adjusted. One of the price elections offered shall approximate (but be not less than 90 per centum of) the projected market price for the commodity involved, as determined by the Board."; and

(3) striking out the ninth sentence, which begins "Counties selected by the Board . . .".

HAIL AND FIRE INSURANCE CREDIT, PREMIUM SUBSIDY, REINSURANCE, AND SPECIFIC RISK PROTECTION

SEC. 106. Effective with respect to the 1981 and subsequent crops, section 508 of the Federal Crop Insurance Act is amended by— 7 USC 1508.

(1) amending subsection (b) to read as follows:

"(b)(1) To fix adequate premiums for insurance at such rates as the Board deems actuarially sufficient to cover claims for losses on such insurance and to establish as expeditiously as possible a reasonable reserve against unforeseen losses.

"(2) The producer may elect to have deleted from the Corporation's policy of insurance the coverage against losses caused by hail and fire and to obtain coverage therefor from other than a Federal insurer. Upon notice in writing of such election to the Corporation and submission of evidence of such substitute coverage on the commodities insured by the Corporation in a dollar amount not less than that provided by the Corporation's policy of insurance, the producer's premium, as calculated by the Corporation, shall be reduced by an amount equal to 40 per centum of the prevailing average county hail and fire insurance premium charged by other than Federal insurers for the dollar amount of the coverage provided by the Corporation's policy of insurance, as determined by the Corporation: *Provided,* That the producer's premium shall not be reduced by less than 15 per centum nor more than 30 per centum: *Provided further,* That, notwithstanding the preceding provisions of this sentence, the producer's premium shall not be reduced by an amount that exceeds the premium for the substitute coverage of a dollar amount equal to that provided by the Corporation's policy of insurance. Any premium reduction in excess of the amount of premium that the Corporation determines would have been necessary for the Corporation to charge in order to cover indemnities actually paid by other than Federal insurers for hail and fire coverage deleted from the Corporation's policy of insurance shall be regarded as premium paid by the Corporation. Premium reduction.

"(3) For the purpose of encouraging the broadest possible participation in the insurance program, 30 per centum of each producer's premium (reduced, where applicable, for hail and fire exclusion, or State or State agency subsidy), as calculated by the Corporation on any coverage under the Corporation's policy of insurance up to a maximum of 65 per centum of the recorded or appraised average yield, as adjusted, shall be paid by the Corporation.

"(4) The producer's premium, or share thereof, shall be collected at such time or times, and shall be secured in such manner, as the Board may determine. Premium collection.

"(5) The Board may enter into agreements with any State or agency of a State under which such State or agency may pay to the State agreements.

Corporation additional premium subsidy to further reduce the portion of the premium paid by farmers in such State.

Partial payment.

"(6) With respect to any crop insurance covering the 1981 crop of wheat, feed grains, upland cotton, or rice, a producer shall not be eligible for a partial payment of the premium by the Corporation under paragraph (3) of this subsection for such commodity if the producer elects to make the acreage of the commodity eligible for payments under the disaster payment provisions for wheat, feed grains, upland cotton, and rice of the Agricultural Act of 1949 (as amended effective for the 1981 crops): *Provided further,* That a producer who is not eligible for a partial payment of premium by the Corporation under this subsection because of the producer's election to make the acreage of the commodity involved eligible for disaster payments in 1981 shall remain eligible to purchase Federal crop insurance on the 1981 acreage of the commodity at the full cost of the premium.";

7 USC 1421 note.

(2) amending subsection (c) to read as follows:

Claims.

"(c) To adjust and pay claims for losses under rules prescribed by the Board. In the event that any claim for indemnity under the provisions of this title is denied by the Corporation, an action on such claim may be brought against the Corporation in the United States district court for the district in which the insured farm is located: *Provided,* That no suit on such claim may be allowed under this section unless it shall have been brought within one year after the date when notice of denial of the claim is mailed to and received by the claimant.";

(3) striking out subsection (d), and redesignating subsection (e) as subsection (d); and

(4) striking out subsection (f) and adding new subsections (e), (f), (g), and (h) as follows:

Reinsurance.

"(e) And directed, notwithstanding any other provision of this title, to provide reinsurance, to the maximum extent practicable, upon such terms and conditions as the Board may determine to be consistent with subsections (a) and (b) of this section and sound reinsurance principles, to insurers including private insurance companies or pools of such companies, reinsurers of such companies, or State or local governmental entities, including any political subdivisions thereof, that insure producers of any agricultural commodity under a plan or plans acceptable to the Corporation. A test program of such reinsurance shall be made available, to the maximum extent possible, to begin not later than with the 1982 crops. In order to provide equity among producers purchasing crop insurance, whenever the Corporation provides reinsurance under this subsection to any such insurers, the Corporation shall pay a portion of each producer's premium for such insurance so reinsured. Each such payment shall cover the same per centum of the premium, and be subject to the same restrictions regarding payments of premiums for crop insurance on commodities, as provided in subsection (b) of this section for Federal partial payments of Federal crop insurance premiums. The Corporation shall also pay operating and administrative costs to insurers of policies on which the Corporation provides reinsurance to the same extent that such costs are covered by the Corporation on the Corporation's policies of insurance. Insurers of policies on which reinsurance is provided shall make use of licensed private insurance agents and brokers on the same basis as provided for policies of the Corporation under section 507(c)(3) of this title, except that the provisions for compensating agents and brokers from premiums paid by the insured shall not apply.

Test program.

Operating and adminstrative costs.

Ante, p. 1313.

"(f) To provide insurance or reinsurance for production of agricultural commodities in the Commonwealth of Puerto Rico, the Virgin Islands of the United States, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands in the same manner as provided in this section for production of agricultural commodities in the United States.

"(g) To offer specific risk protection programs including, but not limited to, prevented planting, wildlife depredation, tree damage and disease, and insect infestation programs under such terms and conditions as the Board may determine: *Provided*, That no program may be undertaken if insurance for the specific risk involved is generally available from private companies.

"(h) To include appreciation (including interest charges) as an insurable cost of production in calculating premiums and indemnities in connection with insurance on yields of timber and forests.".

RESEARCH, SURVEYS, AND PILOT PROGRAMS

SEC. 107. (a) Section 506(h) of the Federal Crop Insurance Act is amended to read as follows: 7 USC 1506.

"(h) shall assemble data for the purpose of establishing sound actuarial bases for insurance on agricultural commodities;".

(b) Section 508 of the Federal Crop Insurance Act is amended by adding a new subsection (i) as follows: *Ante*, p. 1315.

"(i) To conduct research, surveys, pilot programs, and investigations relating to crop insurance and agriculture-related risks and losses including, but not limited to, insurance on losses involving reduced forage on rangeland caused by drought and by insect infestation, livestock poisoning and disease, destruction of bees due to the use of pesticides, and other unique problems of special risk related to, but not limited to, fruits, nuts, vegetables, aquacultural species, forest industry needs (including appreciation), and other agricultural products as determined by the Board: *Provided*, That no such programs may be undertaken if insurance protection against such risks is generally available from private companies. Beginning in the 1981 crop year and ending after the 1985 crop year, the Corporation shall also conduct a pilot program of individual risk underwriting of crop insurance in not less than twenty-five counties. Under this pilot program, to the extent that appropriate yield data are available, the Corporation shall make available to producers in such counties crop insurance under this title based on personalized rates and with guarantees determined from the producer's actual yield history. After the completion of any pilot program under this subsection, the Corporation shall evaluate the pilot program and submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a report of the operations of the pilot program, including its evaluation of the pilot program and its recommendations with respect to implementing the program on a national basis.". Crop insurance. Evaluation, report to congressional committees.

DELETION OF AUTHORITY FOR ADVISORY COMMITTEES

SEC. 108. Section 515 of the Federal Crop Insurance Act is repealed. Repeal. 7 USC 1515.

APPROPRIATIONS FOR OPERATING AND ADMINISTRATIVE EXPENSES

SEC. 109. Effective October 1, 1980, section 516(a) of the Federal Crop Insurance Act is amended to read as follows: 7 USC 1516.

Appropriation authorization.
7 USC 1516.

"SEC. 516. (a) There are hereby authorized to be appropriated such sums as may be necessary to cover the operating and administrative costs of the Corporation, including agents' and brokers' commissions, interest on Treasury notes and other obligations, partial premium payments by the Corporation, and the direct cost of loss adjusters for crop inspections and loss adjustments, which shall be allotted to the Corporation in such amounts and at such time or times as the Secretary of Agriculture may determine. Expenses in connection with agents' and brokers' commissions, interest on Treasury notes and other obligations, partial premium payments by the Corporation, and the direct cost of loss adjusters for crop inspections and loss adjustments may be paid from premium income and other Corporation funds, and any such payments may be restored by appropriations in subsequent years. The Corporation may not employ more than two hundred additional permanent full-time employees, in excess of the number of full-time employees employed by the Corporation on the effective date of the Federal Crop Insurance Act of 1980, to implement the provisions of this title, except in the case of, and only during, emergencies.".

Additional employees.

Ante, p. 1312.

EMERGENCY FUNDING IN CASE OF INSUFFICIENCY

7 USC 1516.

SEC. 110. Effective October 1, 1980, section 516 of the Federal Crop Insurance Act is amended by adding new subsections (c) and (d) as follows:

Indemnification.

"(c)(1) If at any time the moneys available to the Federal Crop Insurance Corporation are insufficient to enable the Corporation to discharge its responsibility of indemnifying producers for losses under this title, the Corporation may, upon majority vote of its Board of Directors, request the Secretary of Agriculture to use the funds of the Commodity Credit Corporation to make timely payment of indemnities to producers. Upon receiving such a request, the Secretary of Agriculture may use the funds of the Commodity Credit Corporation to meet obligations to indemnify producers for losses under this title. The Secretary's authority to use the funds of the Commodity Credit Corporation for the purposes of this subsection shall expire one year after the date on which the authority is first used.

"(2) The authority to make commitments under this subsection, in excess of funds available to the Commodity Credit Corporation under section 4 of the Commodity Credit Corporation Charter Act and the Act of October 11, 1978 (92 Stat. 1073), shall be effective for any fiscal year only to the extent provided by appropriation Acts.

15 USC 714b.

Notes or obligations, issuance.

"(d) Except as provided in subsection (c), if at any time the moneys available to the Federal Crop Insurance Corporation are insufficient to enable the Corporation to discharge its responsibility of indemnifying producers for losses under this title, the Corporation may issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions, as may be prescribed by the Secretary of the Treasury. Redemption of such notes or obligations shall be made by the Corporation from moneys available from premiums or the issuance of capital stock under section 504 of this title. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, which shall be not less than a rate determined by taking into consideration the average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes

Redemption.

Ante, p. 1312.

Interest rate determination.

or other obligations. The Secretary of the Treasury shall purchase any notes or other obligations issued hereunder and for that purpose is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act and the purposes for which securities may be issued under that Act are extended to include any purchase of such notes or obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by the Secretary of the Treasury under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States. The borrowing authority provided for in this subsection may be exercised by the Corporation only to such extent or in such amounts as are provided in appropriation Acts.". 31 USC 774.

AGRICULTURAL COMMODITY

SEC. 111. Section 518 of the Federal Crop Insurance Act is amended to read as follows: 7 USC 1518.

"SEC. 518. 'Agricultural commodity', as used in this title, means wheat, cotton, flax, corn, dry beans, oats, barley, rye, tobacco, rice, peanuts, soybeans, sugar beets, sugar cane, tomatoes, grain sorghum, sunflowers, raisins, oranges, sweet corn, dry peas, freezing and canning peas, forage, apples, grapes, potatoes, timber and forests, nursery crops, citrus, and other fruits and vegetables, nuts, tame hay, native grass, aquacultural species (including, but not limited to, any species of finfish, mollusk, crustacean, or other aquatic invertebrate, amphibian, reptile, or aquatic plant propagated or reared in a controlled or selected environment), or any other agricultural commodity, excluding livestock and stored grain, determined by the Board under subsection (a) or (i) of section 508 of this title, or any one or more of such commodities, as the context may indicate.". *Ante*, pp. 1314, 1317.

EFFECTIVE DATE

SEC. 112. Except as otherwise provided in this Act, the provisions of this Act amending the Federal Crop Insurance Act shall become effective on the date of enactment of this Act. 7 USC 1504 note. 7 USC 1501.

TITLE II—DISASTER PAYMENTS

PREVENTED PLANTING DISASTER AND FARM DISASTER PAYMENTS FOR THE 1981 CROPS

SEC. 201. (a) Section 101(h)(4) of the Agricultural Act of 1949, as added effective for the 1978 through 1981 crops of rice, is amended by— 7 USC 1441.

(1) in subparagraph (B), striking out "Effective only with respect to the 1978, 1979, and 1980 crops of rice," and inserting in lieu thereof "Except as otherwise provided in subparagraph (D) of this paragraph, effective with respect to the 1978 through 1981 crops of rice,";

(2) in subparagraph (C), striking out "Effective only with respect to the 1978, 1979, and 1980 crops of rice," and inserting in lieu thereof "Except as otherwise provided in subparagraph (D) of this paragraph, effective with respect to the 1978 through 1981 crops of rice,"; and

(3) redesignating subparagraph (D) as subparagraph (E) and inserting immediately after subparagraph (C) a new subparagraph (D) as follows:

"(D) With respect to the 1981 crop of rice, cooperators on a farm shall not be eligible for disaster payments under this paragraph if the cooperators elect to cover the rice acreage with crop insurance, part of the premium for which is paid by the Federal Crop Insurance Corporation under the provisions of section 508(b)(3) or 508(e) of the Federal Crop Insurance Act.".

Ante, p. 1315.

7 USC 1444.

(b) Section 103(f)(5) of the Agricultural Act of 1949, as added effective for the 1978 through 1981 crops of upland cotton, is amended by—

(1) in subparagraph (A), striking out "Effective only with respect to the 1978, 1979, and 1980 crops of upland cotton," and inserting in lieu thereof "Except as otherwise provided in subparagraph (C) of this paragraph, effective with respect to the 1978 through 1981 crops of upland cotton,";

(2) in subparagraph (B), striking out "Effective only with respect to the 1978, 1979, and 1980 crops of upland cotton," and inserting in lieu thereof "Except as otherwise provided in subparagraph (C) of this paragraph, effective with respect to the 1978 through 1981 crops of upland cotton,"; and

(3) adding at the end thereof a new subparagraph (C) as follows:

"(C) With respect to the 1981 crop of upland cotton, producers on a farm shall not be eligible for disaster payments under this paragraph if the producers elect to cover the upland cotton acreage with crop insurance, part of the premium for which is paid by the Federal Crop Insurance Corporation under the provisions of section 508(b)(3) or 508(e) of the Federal Crop Insurance Act.".

7 USC 1444c.

(c) Section 105A(b)(2) of the Agricultural Act of 1949, as added effective for the 1977 through 1981 crops of feed grains, is amended by—

(1) in subparagraph (A), striking out "Effective only with respect to the 1978, 1979, and 1980 crops of feed grains," and inserting in lieu thereof "Except as otherwise provided in subparagraph (C) of this paragraph, effective with respect to the 1978 through 1981 crops of feed grains,";

(2) in subparagraph (B), striking out "Effective only with respect to the 1978, 1979, and 1980 crops of feed grains," and inserting in lieu thereof "Except as otherwise provided in subparagagph (C) of this paragraph, effective with respect to the 1978 through 1981 crops of feed grains,"; and

(3) redesignating subparagraph (C) as subparagraph (D) and inserting immediately after subparagraph (B) a new subparagraph (C) as follows:

"(C) With respect to the 1981 crop of feed grains, producers on a farm shall not be eligible for disaster payments under this paragraph if the producers elect to cover the feed grain acreage with crop insurance, part of the premium for which is paid by the Federal Crop Insurance Corporation under the provisions of section 508(b)(3) or 508(e) of the Federal Crop Insurance Act.".

7 USC 1445b.

(d) Section 107A(b)(2) of the Agricultural Act of 1949, as added effective for the 1977 through 1981 crops of wheat, is amended by—

(1) in subparagraph (A), striking out "Effective only with respect to the 1978, 1979, and 1980 crops of wheat," and inserting in lieu thereof "Except as otherwise provided in subparagraph

(C) of this paragraph, effective with respect to the 1978 through 1981 crops of wheat,";

(2) in subparagraph (B), striking out "Effective only with respect to the 1978, 1979, and 1980 crops of wheat," and inserting in lieu thereof "Except as otherwise provided in subparagraph (C) of this paragraph, effective with respect to the 1978 through 1981 crops of wheat,"; and

(3) redesignating subparagraph (C) as subparagraph (D) and inserting immediately after subparagraph (B) a new subparagraph (C), as follows:

"(C) With respect to the 1981 crop of wheat, producers on a farm shall not be eligible for disaster payments under this paragraph if the producers elect to cover the wheat acreage with crop insurance, part of the premium for which is paid by the Federal Crop Insurance Corporation under the provisions of section 508(b)(3) or 508(e) of the Federal Crop Insurance Act.". *Ante*, p. 1315.

NOTICE TO PRODUCERS OF RIGHT TO ELECT SUBSIDIZED CROP INSURANCE OR DISASTER PAYMENTS ON THE 1981 CROPS

SEC. 202. The Secretary of Agriculture, after consultation with the Board of Directors of the Federal Crop Insurance Corporation, shall, at least sixty days prior to the beginning of the planting of the 1981 crops of wheat, feed grains, upland cotton, and rice, or thirty days after the date of enactment of this Act, whichever is the later, notify producers of those commodities of their right to elect, with respect to the 1981 crop, between (1) declaring the farm acreage of the respective commodity eligible for disaster payments under the Agricultural Act of 1949, or (2) covering such farm acreage with crop insurance, part of the premium for which is paid by the Federal Crop Insurance Corporation under the provisions of section 508(b)(3) or 508(e) of the Federal Crop Insurance Act. Such notice shall include a statement of the percent of crop insurance premium that will be paid by the Corporation. 7 USC 1508 note. 7 USC 1421 note.

Approved September 26, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 96-430 accompanying H.R. 4119 (Comm. on Agriculture) and No. 96-1272 (Comm. of Conference).

SENATE REPORT No. 96-254 (Comm. on Agriculture, Nutrition, and Forestry).

CONGRESSIONAL RECORD:

Vol. 125 (1979): Sept. 7, 10, considered and passed Senate.

Vol. 126 (1980): Feb. 13, H.R. 4119 considered and passed House; passage vacated and S. 1125, amended, passed in lieu.

Sept. 8, Senate agreed to conference report.

Sept. 17, House agreed to conference report.

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Public Law 96-366
96th Congress

An Act

Sept. 29, 1980
[H.R. 3292]

To assist the States in developing fish and wildlife conservation plans and actions, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Fish and Wildlife Conservation Act of 1980".

Fish and Wildlife Conservation Act of 1980.
16 USC 2901 note.
16 USC 2901.

SEC. 2. DECLARATION OF FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds and declares the following:

(1) Fish and wildlife are of ecological, educational, esthetic, cultural, recreational, economic, and scientific value to the Nation.

(2) The improved conservation and management of fish and wildlife, particularly nongame fish and wildlife, will assist in restoring and maintaining fish and wildlife and in assuring a productive and more esthetically pleasing environment for all citizens.

(3) Many citizens, particularly those residing in urban areas, have insufficient opportunity to participate in recreational and other programs designed to foster human interaction with fish and wildlife and thereby are unable to have a greater appreciation and awareness of the environment.

(4) Historically, fish and wildlife conservation programs have been focused on the more recreationally and commercially important species within any particular ecosystem. As a consequence such programs have been largely financed by hunting and fishing license revenues or excise taxes on certain hunting and fishing equipment. These traditional financing mechanisms are neither adequate nor fully appropriate to meet the conservation needs of nongame fish and wildlife.

(5) Each State should be encouraged to develop, revise, and implement, in consultation with appropriate Federal, State, and local and regional agencies, a plan for the conservation of fish and wildlife, particularly those species which are indigenous to the State.

(b) PURPOSE.—It is the purpose of this Act—

(1) to provide financial and technical assistance to the States for the development, revision, and implementation of conservation plans and programs for nongame fish and wildlife; and

(2) to encourage all Federal departments and agencies to utilize their statutory and administrative authority, to the maximum extent practicable and consistent with each agency's statutory responsibilities, to conserve and to promote conservation of nongame fish and wildlife and their habitats, in furtherance of the provisions of this Act.

SEC. 3. DEFINITIONS. 16 USC 2902.

As used in this Act—

(1) The term "approved conservation plan" means the conservation plan of a State approved by the Secretary pursuant to section 5(a) of this Act.

(2) The term "conservation plan" means a plan developed by a State for the conservation of fish and wildlife which meets the requirements set forth in section 4.

(3) The terms "conserve", "conserving", and "conservation" mean to use, and the use of, such methods and procedures which are necessary to ensure, to the maximum extent practicable, the well being and enhancement of fish and wildlife and their habitats for the ecological, educational, esthetic, cultural, recreational, and scientific enrichment of the public. Such methods and procedures may include, but are not limited to, any activity associated with scientific resources management, such as research, census, law enforcement, habitat acquisition, maintenance, development, information, education, population manipulation, propagation, technical assistance to private landowners, live trapping, and transplantation.

(4) The term "designated State agency" means the commission, department, division, or other agency of a State which has primary legal authority for the conservation of fish and wildlife. If any State has placed such authority in more than one agency, such term means each such agency acting with respect to its assigned responsibilities but such agencies, for purposes of this Act, shall submit a single conservation plan.

(5) The term "fish and wildlife" means wild vertebrate animals that are in an unconfined state, including, but not limited to, nongame fish and wildlife.

(6) The term "nongame fish and wildlife" means wild vertebrate animals that are in an unconfined state and that—

(A) are not ordinarily taken for sport, fur, or food, except that if under applicable State law, any of such animals may be taken for sport, fur, or food in some, but not all, areas of the State, any of such animals within any area of the State in which such taking is not permitted may be deemed to be nongame fish and wildlife;

(B) are not listed as endangered species or threatened species under the Endangered Species Act of 1973 (16 U.S.C. 1531–1543); and

(C) are not marine mammals within the meaning of section 3(5) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1362(5)).

Such term does not include any domesticated species that has reverted to a feral existence.

(7) The term "Secretary" means the Secretary of the Interior.

(8) The term "State" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, Guam, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands.

SEC. 4. CONSERVATION PLANS. 16 USC 2903.

The conservation plan for any State must—

(1) provide for the vesting in the designated State agency of the overall responsibility for the development and revision of the conservation plan;

(2) provide for an inventory of the nongame fish and wildlife, and such other fish and wildlife as the designated State agency deems appropriate, that are within the State and are valued for ecological, educational, esthetic, cultural, recreational, economic, or scientific benefits by the public;

(3) with respect to those species identified under paragraph (2) (hereinafter in this section referred to as "plan species"), provide for—

(A) the determination of the size, range, and distribution of their populations, and

(B) the identification of the extent, condition, and location of their significant habitats;

(4) identify the significant problems which may adversely affect the plan species and their significant habitats;

(5) determine those actions which should be taken to conserve the plan species and their significant habitats;

(6) establish priorities for implementing the conservation actions determined under paragraph (5);

(7) provide for the monitoring, on a regular basis, of the plan species and the effectiveness of the conservation actions determined under paragraph (5);

(8) provide for plan review and revision, if appropriate, at intervals of not more than 3 years;

Public views.

(9) ensure that the public be given opportunity to make its views known and considered during the development, revision, and implementation of the plan; and

Consultation.

(10) provide that the designated State agency consult, as appropriate, with Federal agencies, and other State agencies during the development, revision, and implementation of the plan, in order to minimize duplication of efforts and to ensure that the best information is available to all such agencies.

16 USC 2904.

SEC. 5. APPROVAL OF CONSERVATION PLANS AND CERTAIN NONGAME FISH AND WILDLIFE CONSERVATION ACTIONS.

(a) APPROVAL BY SECRETARY OF PLANS.—(1) Any State may apply to the Secretary for approval of a conservation plan.

Regulations.

(2) Applications for the approval of conservation plans shall be made and reviewed by the Secretary in such manner as the Secretary shall by regulation prescribe.

(3) As soon as practicable, but not later than 180 days, after the date on which a State submits (or resubmits in the case of prior disapproval) an application for the approval of a conservation plan the Secretary shall—

(A) approve the conservation plan, and designate it as an approved conservation plan, if he determines that the plan—

(i) meets the requirements set forth in section 4, and

(ii) is substantial in character and design; or

(B) disapprove the conservation plan if he determines that—

(i) the plan does not meet the requirements set forth in section 4, or

(ii) to implement any part of the plan on the basis of the specifications, determinations, identifications, or priorities therein would threaten the natural stability and continued viability of any of the plan species concerned.

Written disapproval statement.

If the Secretary disapproves a plan, he shall give the State concerned a written statement of the reasons for disapproval and provide the State opportunity for consultation with respect to deficiencies in the plan and the modifications required for approval.

(b) EFFECT OF APPROVAL OF PLANS.—If the Secretary approves the conservation plan of any State under subsection (a)—

(1) that portion of such plan that pertains to wildlife conservation shall be deemed to be an approved plan for purposes of section 6(a)(1) of the Act of September 2, 1937 (16 U.S.C. 669e(a)(1)), commonly referred to as the Pittman-Robertson Wildlife Restoration Act; and

(2) that portion of such plan that pertains to fish conservation shall be deemed to be an approved plan for the purposes of section 6(a)(1) of the Act of August 9, 1950 (16 U.S.C. 777c(a)(1)), commonly referred to as the Dingell-Johnson Sport Fish Restoration Act. 16 USC 777e.

(c) CONSERVATION ACTIONS.—If the Secretary approves the conservation plan of any State under subsection (a), those conservation actions set forth in the plan which pertain to nongame fish and wildlife shall be deemed to be eligible as nongame fish and wildlife projects for which reimbursement is available under section 6.

(d) NONGAME CONSERVATION ACTIONS IN THE ABSENCE OF AN APPROVED PLAN.—In the absence of an approved conservation plan, and on a showing of need by the State, the Secretary may deem certain conservation actions to be nongame fish and wildlife projects for which reimbursement is available under section 6(a)(3) if they—

(1) are consistent with such of the requirements set forth in section 4 as may be appropriate, including, but not limited to, the requirements in paragraphs (3), (4), (5), and (7) of such section; and

(2) are substantial in character and design.

SEC. 6. REIMBURSEMENT OF STATE COSTS FOR DEVELOPING, REVISING, AND IMPLEMENTING CONSERVATION PLANS AND IMPLEMENTING CERTAIN NONGAME FISH AND WILDLIFE CONSERVATION ACTIONS. 16 USC 2905.

(a) IN GENERAL.—Any State may apply to the Secretary for reimbursement under this section for costs incurred by the State for the following:

(1) The development of a conservation plan.

(2) The revision of an approved conservation plan.

(3) The implementation of nongame fish and wildlife conservation actions approved under section 5 (c) and (d).

(4) The implementation of conservation actions specified in an approved conservation plan.

(5) The coordination, consolidation, or implementation of the conservation plan or conservation actions approved under this Act with other related plans or actions developed pursuant to the Act of September 2, 1937 (16 U.S.C. 669e(a)(1)), commonly referred to as the Pittman-Robertson Wildlife Restoration Act and the Act of August 9, 1950 (16 U.S.C. 777c(a)(1)), commonly referred to as the Dingell-Johnson Sport Fish Restoration Act. 16 USC 777e.

(b) APPLICATIONS.—Application for reimbursement under this section shall be made in such manner as the Secretary shall by regulation prescribe and shall contain such information as is necessary to enable the Secretary to determine whether the State meets the eligibility requirements set forth in subsection (c).

(c) ELIGIBILITY.—No State is eligible for reimbursement under this section unless the Secretary finds that the costs, for which reimbursement is sought, have been incurred by the State as follows:

(1) If reimbursement is sought under subsection (a)(1), such costs have been incurred in developing a conservation plan that meets the requirements set forth in section 4.

(2) If reimbursement is sought under subsection (a)(2), such costs have been incurred in revising the plan in a manner consistent with such requirements.

(3) If reimbursement is sought under subsection (a)(3), such costs have been incurred in implementing the conservation actions as approved by the Secretary.

(4) If reimbursement is sought under subsection (a)(4), such costs have been incurred in implementing conservation actions specified in, and in a manner consistent with, the approved conservation plan.

(5) If reimbursement is sought under subsection (a)(5), such costs have been incurred in consolidating, coordinating or implementing conservation plans and actions approved under this Act with approved plans and actions under the Act of August 9, 1950 (16 U.S.C. 777c(a)(1)), commonly referred to as the Dingell-Johnson Sport Fish Restoration Act and the Act of September 2, 1937 (16 U.S.C. 669e(a)(1)), commonly referred to as the Pittman-Robertson Wildlife Restoration Act in a manner consistent with sections 2 and 4 of this Act.

16 USC 777e.

(d) REIMBURSEMENT.—Subject to the limitations in subsection (c) and the terms and conditions imposed under section 7, and to the availability of funds appropriated under section 11, the Secretary shall reimburse each State which the Secretary finds to be eligible therefor under subsection (c).

(e) LIMITATIONS.—(1) The total amount of the reimbursement paid to any State under this section with respect to any fiscal year may not exceed the allocation available to the State under section 8 for such year.

(2) No reimbursement may be paid under this section to any State for any cost incurred by the State during any fiscal year—

(A) after September 30, 1991, in developing a conservation plan;

(B) after September 30, 1986, for costs incurred in implementing certain nongame fish and wildlife actions approved under section 5(d);

(C) in which less than 80 percent of the costs to be reimbursed are for the principal benefit of nongame fish and wildlife or the users of nongame fish and wildlife;

(D) in implementing an approved conservation plan, unless the cost was incurred in implementing actions approved under section 5 (c) or (d);

(E) in implementing an approved conservation plan covering only nongame fish and wildlife, or any nongame fish and wildlife conservation action approved under section 5 (c) or (d), to the extent that more than 10 percent of such costs are paid for with moneys collected during such year by the State—

(i) from the sale of hunting, fishing, and trapping licenses, and

(ii) as penalties (including forfeitures) for violations of the hunting, fishing, and trapping laws of the State; or

(F) in implementing an approved conservation plan or any nongame fish and wildlife conservation action approved under section 5 (c) or (d), to the extent that—

(i) more than 10 percent of such costs are applied for purposes of conservation law enforcement under any such plan or action, and

(ii) more than 10 percent of such costs in any such year are accounted for by personal service or other inkind contributions.

(3) The amount of the reimbursement paid to any State under this section with respect to any fiscal year—

(A) may not exceed 75 percent for the development of a conservation plan except that during fiscal years 1982, 1983, and 1984 such amount shall not exceed 90 percent;

(B) for the implementation of nongame fish and wildlife conservation actions approved under section 5 (c) or (d), may not exceed 75 percent of the cost of implementing the action during such fiscal year, except that if such action is undertaken by two or more States such amount shall not exceed 90 percent;

(C) during and after the fiscal year in which the conservation plan of the State is approved under section 5(a), may not exceed 75 percent of the cost of implementing and revising the conservation plan during such fiscal year, or if two or more States cooperate in implementing or revising such plan, such cost shall not exceed 90 percent, and

(D) after September 30, 1991, may not exceed—

(i) 50 percent of the cost of implementing and revising the plan during the fiscal year, if the approved conservation plan of the State covers only nongame fish and wildlife, or

(ii) 75 percent of the cost of implementing and revising the plan during such fiscal year, if the approved conservation plan of the State coordinates and consolidates planning for fish and wildlife.

(4)(A) In computing the costs incurred by any State during any fiscal year in developing or revising conservation plans, in implementing approved conservation plans, or in implementing nongame fish and wildlife conservation actions approved under section 5 (c) or (d), for which reimbursement may be available under this section, the Secretary shall—

(i) take into account, in addition to each outlay, the value of inkind contributions and real and personal property received and applied during such year by the State for such purposes; and

(ii) not include any other Federal moneys received by such State and applied by it, directly or indirectly, for such purposes.

(B) For purposes of subparagraph (A), inkind contributions may be in the form of, but are not limited to, personal services rendered by volunteers in carrying out surveys, censuses, and other scientific studies regarding fish and wildlife. The Secretary shall by regulation establish (i) the training, experience, and other qualifications which such volunteers must have in order for their services to be considered as inkind contributions; and (ii) the standards under which the Secretary will determine the value of inkind contributions and real and personal property for purposes of subparagraph (A).

(C) Any valuation determination made by the Secretary for purposes of this paragraph shall be final and conclusive.

16 USC 2906.

SEC. 7. TERMS AND CONDITIONS OF REIMBURSEMENT.

Reimbursements made to the States under section 6 shall be subject to such terms and conditions as the Secretary shall by regulation prescribe as being necessary or appropriate to protect the interests of the United States. Such terms and conditions shall include, but not be limited to, the following:

Recordkeeping.

(1) Each State and each designated State agency shall keep such records as the Secretary shall require as being necessary or

Access to records.

appropriate for fully disclosing the amount and purposes of costs incurred by the State for which reimbursement under section 6 is, or may be, sought. The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access, for purposes of audit and examination, to such records.

Hearing.

(2) Upon a finding by the Secretary, after notice and opportunity for an agency hearing on the record, that any State has received reimbursement under section 6 for which it is not eligible, or has violated any term or condition imposed under this section, the State shall thereafter be ineligible to receive reimbursement under such section until restitution satisfactory to the Secretary is made, such violation ceases, or adverse effects resulting from such violation are remedied.

16 USC 2907.

SEC. 8. ALLOCATION OF FUNDS FOR ADMINISTRATION AND REIMBURSEMENT OF STATES.

(a) IN GENERAL.—The total amount appropriated pursuant to section 11 for any fiscal year shall be available for administration and for allocation among the States as provided in this section.

(b) ALLOCATION FORMULA.—Of the total amount appropriated for any fiscal year pursuant to section 11—

(1) the Secretary shall deduct so much, but not to exceed 8 percent thereof, as may be necessary for administering during such fiscal year the provisions of this Act relating to the purposes for which so appropriated;

(2) less the deduction under paragraph (1), the Secretary shall allocate—

(A) for the District of Columbia and the Commonwealth of Puerto Rico each a sum equal to not more than one-half of 1 percent of such amount; and

(B) for Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands each a sum equal to not more than one-sixth of 1 percent of such amount; and

(3) less the deduction under paragraph (1) and the sums allocated under paragraph (2), the Secretary shall allocate for each of the States (other than those provided for in paragraph (2)) a sum—

(A) one-third of which is based on the ratio to which the area of such State bears to the total area of all such States, and

(B) two-thirds of which is based on the ratio to which the population of such State bears to the total population of all such States,

except all sums allocated under this paragraph shall be adjusted equitably so that no State shall be allocated a sum which is less than one-half of 1 percent of the amount available for allocation under this paragraph for any fiscal year or more than 5 percent of such amount.

(c) TREATMENT OF AMOUNTS ALLOCATED BUT NOT USED FOR ANY FISCAL YEAR.—(1) That portion of any amount deducted by the Secretary under subsection (b)(1) for administrative purposes for any fiscal year and not expended during such fiscal year shall remain available for administrative purposes until the close of the next succeeding fiscal year and if not obligated or expended by the close of such succeeding fiscal year shall be available for disbursement by the Secretary without regard to subsection (b), to the States to carry out the purposes of this Act.

(2) That portion of any amount allocated to any State under subsection (b) (2) or (3) for any fiscal year and not disbursed to the State for such fiscal years under section 6 shall remain available for disbursement to the State under such section for the next succeeding fiscal year and if not disbursed for such succeeding fiscal year shall be available for disbursement by the Secretary, without regard to subsection (b), to the States to carry out the purposes of this Act.

16 USC 2908.

SEC. 9. OTHER FEDERAL ASSISTANCE AND ACTIONS.

The Secretary and the chief executive officer of any other appropriate Federal department or agency may loan to any State such personnel and equipment of the department or agency, share such scientific or other appropriate information, and provide such other assistance as the Secretary or officer determines appropriate for purposes of assisting any State to develop or revise conservation plans.

16 USC 2909.

SEC. 10. DISCLAIMERS.

Nothing in this Act shall be construed as affecting—

(1) the authority, jurisdiction, or responsibility of the States to manage, control, or regulate fish and resident wildlife under State law;

(2) any requirement under State law that lands, waters, and interests therein may only be acquired for conservation purposes if the owner thereof is a willing seller; and

(3) the authority of the Secretary of Agriculture under the Act of March 2, 1931 (46 Stat. 1468–1469; 7 U.S.C. 426–426b).

16 USC 2910.

SEC. 11. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for purposes of making reimbursements under section 6 to States for the development and implementation of conservation plans and for administration of this Act under section 8 not to exceed $5,000,000 for each of fiscal years 1982, 1983, 1984, and 1985.

16 USC 2911.

SEC. 12. STUDY.

The Director of the United States Fish and Wildlife Service, in consultation with affected parties, shall conduct, out of funds available for the administration of this Act a comprehensive study to determine the most equitable and effective mechanism for funding State conservation plans and actions under this Act, including, but not limited to, funding by means of an excise tax on appropriate items. On or before the expiration of the 30-month period following the date of enactment of this Act, the Director shall report to the Committee on Environment and Public Works of the Senate and to the Committee on Merchant Marine and Fisheries of the House of Representatives the results of such study, together with his recommendations with respect thereto.

Report to congressional committees.

Approved September 29, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-168 (Comm. on Merchant Marine and Fisheries).
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